HOUSE OF REPRESENTATIVES—*Thursday, May 16, 1985*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We thank You, O God, for the gift of hope. When we experience weakness, You give us strength; when we know disappointment, You offer grace: when we feel alive and without purpose, You grant direction. For all Your gifts, O God, in strength and grace and direction and for Your loving gift of hope, we offer this our prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Chidon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 95. Concurrent resolution commemorating the 20th anniversary of Head Start.

WHAT HAPPENED TO TRUE TAX REFORM?

(Mr. KLECZKA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLECZKA. Mr. Speaker, what is happening to the concept of true tax reform? The new tax package dubbed "Treasury II" which is to be presented to the country in late May is mysteriously being slanted in favor of the vested and special interests of this country. It seems that big business is winning. Slipping by us is the equity and the fairness that the American people have demanded. The President, it would appear, has backed away from reform in such key areas as oil and gas, real estate, business depreciation and capital gains. And the President dares to call all of this progressive.

The true special interest group of this country should be the people and it seems they are being ignored in Treasury II. The people demand a simple and universal tax system. Individuals in this country must be the true beneficiaries of tax reform, not some corporate entity.

Instead, it would appear that once again the winners will be the corporations, the tax shelter beneficiaries, the privileged, the same group that benefited from the President's tax cuts of 1981.

The Congress must not tolerate this. We must enact a true and fair tax reform package. Our approach must be equitable.

Mr. President, the people of America are watching you.

A TRIBUTE TO THE HONORABLE WALLACE F. BENNETT, FORMER SENATOR FROM UTAH

(Mr. MONSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONSON. Mr. Speaker, it is a distinct honor for me to stand in these Chambers today to pay tribute to a man whose life stands as an example of unquestionable moral character, achievement, and service. Wallace F. Bennett served 24 years as a U.S. Senator from my great State of Utah, and in that time, he earned a reputation as a skilled legislator and an effective representative for Utah. It is my privilege to introduce a bill designating the Federal building at 125 South State Street in Salt Lake City, UT, as the "Wallace F. Bennett Federal Building." I believe it is only fitting that the Federal building be named after someone who serves as a paragon of excellence for so many in the State of Utah. His life history is one of achievement and success, not just as a U.S. Senator, but as an esteemed businessman.

While serving in the Senate, Mr. Bennett was the ranking member of the Senate Finance Committee, and senior Republican on the Senate Banking, Housing, and Urban Affairs Committee. He served as secretary of the Senate Republican Conference, vice chairman of the Senate Ethics Committee, and a member of the Joint Committees on Atomic Energy, Defense Production, and Internal Revenue Taxation. He was also a member of the Senate Select Committee on Standards and Conduct.

Mr. Bennett's term of service is the second longest in the history of Utah and is distinguished not only by its duration, but also by its quality. He is the only popularly elected Utah Senator to retire from office voluntarily.

One of Mr. Bennett's colleagues, former Senator Paul J. Fannin of Arizona, appropriately sums up my comments:

> No man better represents these people [from Utah] and this heritage than the senior Senator from Utah, Wallace Bennett.

SUSAN PETERS KOGUT—PHYSICAL EDUCATOR OF THE YEAR

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, this morning I would like to honor and congratulate a constituent of mine, Mrs. Susan Peters Kogut of Joppa, MD.

Susan has been named national "Physical Educator of the Year" by the National Association of Sports and Physical Education.

A teacher at Chesapeake High School, Mrs. Kogut's philosophy—"learning and physical education are for everyone; physical education is the culmination of these two things"—is exemplified by her programs in the Essex, MD, school.

Working with the handicapped, overweight, and troubled adolescent, Susan has gained well deserved national recognition for her concern and belief that physical fitness is for everyone.

As a spokesperson for the benefits of physical education, Susan believes that physical fitness is a healthy alternative to smoking, drinking, and drugs—that the teacher and the coach can have a positive influence on students in getting the message across.

It is always a pleasure to hear of someone's good fortune and achievement, but when the accolade is for working with our young people in the most constructive way, it is a positive joy.

Congratulations, Susan.

□ 1010

THE "JUSTICE" DEPARTMENT

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, if Lady Justice should come alive and witness the deal agreed upon by the

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

U.S. Justice Department and E.F. Hutton & Co., Inc., she would untie her blindfold, drop her scales and flee in disgust.

The Justice Department is now mounting a determined defense of its decision not to prosecute individual officials in E.F. Hutton's $4.35 billion bank fraud which adversely affected 400 American banks through a massive check-kiting scheme.

One prominent elected official said yesterday here in Washington and I quote from today's edition of the New York Times:

> That the agreement not to try to send individuals to jail was a "travesty" and an "incredibly negligent, political judgment."

Associate Attorney General D. Lowell Jensen, whose nomination to be Deputy Attorney General is before the Senate Judiciary Committee, said yesterday that the Justice Department's strategy regarding E.F. Hutton produced a "tremendous favorable" result for the Government.

Mr. Jensen's statement gives added credibility to those of us who know that the U.S. Justice Department is the most politically conscious, politically active agency in the Federal Government.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will inform the gentleman from Kentucky the rules of the House do not permit him to refer to Senate proceedings, and so the Chair would ask him to revise his remarks.

CHILDREN'S PROTECTION ACT OF 1985

(Mr. McCAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCAIN. Mr. Speaker, today I am introducing legislation that will combat one of the most terrible crimes in our society. I am referring to child pornography.

The U.S. Customs Office has estimated that in just the last 3 years they seized more than 247,000 pieces of pornography—70 percent of it depicted children. At least 1 million children have been sexually molested and then filmed for the abuser's pleasure or profit. Approximately 260 child pornography magazines are sold in this country.

The child pornography business makes profits in the millions of dollars. Until now, producers or distributors did not lose their assets when convicted. They might receive a sentence for their crimes, but still retained the profits made at the expense of exploited children. My legislation would include child exploitation crimes under the racketeer influenced and corrupt organizations [RICO] provisions, thus providing for the seizure of all assets and profits made from this business. This bill, the Children's Protection Act of 1985, would also prohibit advertising of child pornography and make it punishable to transport minors across a State line for the purpose of sexual exploitation.

The child pornography business is one of the most horrible enterprises in society today. It exploits innocent children, often leaving them with emotional and physical scars that will last forever. We must enact appropriate measures that will put an end to this crime and severely punish those who would exploit and harm our children.

IMPLEMENT THE PROVISIONS OF THE BOATING SAFETY AND SPORT FISHING ENHANCEMENT ACT

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, I urge my colleagues to support House Resolution 165 which calls on the administration to honor its commitment and implement the provisions of the Boating Safety and Sport Fishing Enhancement Act, included in the Deficit Reduction Act of 1984, as written and intended by Congress.

This act, commonly known as the Wallop-Breaux fund, is based on user fees paid by recreation fishermen and boaters. New taxes were imposed on fishing gear, with the support of the boating and fishing communities. In addition, the legislation recognizes that recreational boaters pay another user fee for which they were previously receiving only limited benefits—the 9 cents per gallon tax of fuel purchased for recreational boats.

When the Federal fuels tax was raised from 4 cents to 9 cents per gallon in 1982, the increase was clearly intended not as a new tax, but as a user fee that would provide direct benefits in the form of roads and other benefits to the people paying the tax.

Prior to the passage of the Wallop-Breaux legislation, the money attributable to the gas tax on motorboats was authorized to be spent on boating safety programs; however, very little was ever appropriated.

The new law mandated that the motorboat fuels tax and the new user fees, along with import duties on fishing tackle and pleasure craft, were to be placed in a special aquatic resources trust fund.

Yet, while earlier praising the legislation, the administration proposed in its fiscal year 1986 budget to repeal the automatic appropriation for the Federal aid in the Sport Fishing Restoration Act and to withhold new funds from the program.

The administration's attack on this program threatens to undermine the user fee concept which has served this and other programs so well.

Sportsmen have willingly supported user fees in the past because they believe in protecting our resources and because Congress has never broken faith with them.

Revenues from the Federal Government through the user fees are to be distributed by the Fish and Wildlife Service on a 75-25 matching basis to States to be used for boating safety, education and law enforcement purposes, construction of boating public access sites, as well as for fishing conservation programs.

While the administration proposes only a funding level of $44 million in fiscal year 1986, the expanded program is estimated to bring in $97 to $102 million, with the remaining $53 to $58 million going into the General Treasury for deficit reduction rather than to the use for which Congress intended.

My State of South Carolina alone stand to lose as much as $1 million a year if the present accounting procedure is allowed to continue to be used.

If user fees are collected but not returned, we will have turned this concept into special taxes for raising general revenues—a complete perversion of congressional intent.

I urge my colleagues to cosponsor this resolution and send a strong message to the administration to operate this program in the manner in which Congress mandated.

THE INDIANA ELECTION DISPUTE

(Mr. STRANG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRANG. Mr. Speaker, we came to this body with an abiding faith in this country, in its people, in its ideals, and its institutions. We are a people of ideas and idealism, with faith in God and faith in ourselves. This faith, Mr. Speaker, is not misplaced.

Our conduct in wresting a legal election from the chagrined grasp of an incredulous Indiana electorate reflects neither a respect for law, nor idealism.

Mr. Speaker, this shame will not just quietly disappear as we have read recently. Respect for decency and for Mr. McIntyre dictates that we never forget.

FEDERAL BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS NEEDS TO GET TOUGH ON MAC-10'S

(Mr. TORRICELLI asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, when it comes to the subject of fighting crime, members of this institution, indeed, the leadership of our country, is eager to get in line. Now there is a line worth joining. Not for symbolism, not for talk, but for some real action.

Sometime ago, the Department of the Treasury made a terrible error. In judging a new gun, the MAC-10, they decided it was no more than a simple pistol, free from any Federal regulation. Time has proven otherwise.

With small changes, the insertion of a single coin, this gun becomes a lethal machinegun, in fact with more deadly power, greater firepower than the M-16 assault rifles used by the U.S. Army.

Mr. Speaker, legislation that I have introduced, H.R. 2024, would require that retroactively, these guns be subject to Federal regulation. They have become the favorite of organized crime, neo-Nazi groups, motorcycle gangs, extremist organizations, drug dealers, and other criminal elements fighting our law enforcement personnel across America.

I urge my colleagues to support this legislation.

The Department of the Treasury has recognized its error and prospectively has subjected these weapons to Federal regulation. The Congress must force them to do so retroactively as well.

This is a chance to get in a line that can move policy. Please join this effort.

FOREIGN AFFAIRS COMMITTEE PASSES NUCLEAR TEST BAN

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, yesterday, by voice vote, the House Foreign Affairs Committee passed House Joint Resolution 3, dealing with limiting nuclear weapons testing.

House Joint Resolution 3 is an arms control measure that urges the President to request ratification of the Threshold Test Ban Treaty and the Peaceful Nuclear Explosions Treaty and to resume negotiations on a comprehensive test ban treaty. The same language of House Joint Resolution 3 was passed in the other body last year by a vote of 77-22—a vote in excess of the two-thirds necessary for treaty ratification.

House Joint Resolution 3 is a proarms control measure which builds off the past arms control efforts of President Nixon and Ford and reaffirms the position of every President from Eisenhower to and including President Reagan to work toward a comprehensive test ban treaty.

As a manifestation of our commitment to nuclear nonproliferation, House Joint Resolution 3 demonstrates U.S. seriousness about bringing an end to the nuclear arms race.

Ratification of the Threshold Test Ban Treaty [TTBT] and the Peaceful Nuclear Explosions Treaty [PNET] would result in enhanced verification of these treaties. Verification is enhanced because of the unprecedented exchange of data required by the TTBT and the PNET and provisions for onsite inspection required by the PNET. Such provisions make an assessment of Soviet compliance with these treaties easier and more reliable. These data exchanges, however, are not possible until the treaties are ratified, which is all the more reason why we in the Congress should work diligently and quickly to urge their ratification.

In short, House Joint Resolution 3 is a modest but concrete proarms control and proverification enhancement measure that complements the administration's stated objective of bringing an end to the nuclear arms race.

THE TAX FAIRNESS FOR FAMILIES ACT

(Mr. COATS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, as House sponsor for H.R. 1551, the Tax Fairness for Families Act, I was obviously pleased to learn yesterday that the administration's tax plan included an apparent doubling of the personal exemption from $1,000 to $2,000 for each family member.

This is good news for families that have suffered inequity and discrimination in the Tax Code for many, many years.

□ 1020

However, I was a little bit concerned when I read that under discussion was the possibility that this might be phased in over a 3-year period.

You cannot phase in fairness, Mr. Speaker. It is either fair or it is not fair. And what is important to realize is that the $2,000 level for personal exemption for members of the family is not a benefit. It is ending a discrimination that has existed and an inequity that has existed for a number of years. Were it to become a benefit, it would have to exceed what is rightfully the entitlement of families had that been indexed for inflation since 1948. That has not been the case. So let's go right to the $2,000. It does not even bring us fully even to where we should be in terms of providing equity for family members, but it is a great step in the right direction. I am pleased that the White House has moved this issue to the top of the priority list. We hope through negotiations in the next few weeks to make sure that that $2,000 level is maintained.

NATIONAL HISTORIC PRESERVATION WEEK

(Mr. STAGGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STAGGERS. Mr. Speaker, this week marks the celebration of the 13th annual National Historic Preservation Week. "The Action's Back on Main Street" is the theme this year and reflects the successful efforts of preservation and neighborhood groups to make their downtown areas once again a place to work, to play and do business. In my district, communities have learned that historic preservation is an extremely important economic development tool.

In Monongalia County, Main Street, Morgantown, Inc., has renovated several buildings on the National Register of Historic Places, which has made a significant contribution to economic revitalization.

In Berkeley County, an old mill building with flooding problems has been transformed into a $5 million project. Martinsburg's Blue Ridge Outlet Mall, housed in a former textile mill, is responsible for 160 new jobs, will contribute $1 million in sales tax revenue annually to the State and will benefit other downtown businesses.

Historic preservation can indeed prove to be a catalyst for economic growth. Our heritage does not have to be sacrificed, but can be incorporated into the future growth of our communities.

I salute the efforts of preservation and neighborhood groups in West Virginia, who are responsible for the action returning to main street.

SUNDRY RESCISSION PROPOSALS, DEFERRALS AND REVISED DEFERRAL PROPOSALS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 99-68)

The SPEAKER pro tempore (Mr. ALEXANDER) laid before the House the following message from the President of the United States, which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of today, Thursday, May 16, 1985.)

SIXTH ANNUAL REPORT DESCRIBING FEDERAL ACTIONS WITH RESPECT TO CONSERVATION AND USE OF PETROLEUM AND NATURAL GAS IN FEDERAL FACILITIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Thursday, May 16, 1985.)

CALL OF THE HOUSE

Mr. WALKER. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 118]

Ackerman	de la Garza	Hawkins
Alexander	Dellums	Hayes
Anderson	Derrick	Hefner
Andrews	DeWine	Hendon
Anthony	Dickinson	Henry
Atkins	Dicks	Hertel
AuCoin	DioGuardi	Hiler
Barnard	Donnelly	Howard
Bartlett	Dorgan (ND)	Hoyer
Bateman	Dornan (CA)	Hubbard
Bates	Downey	Hughes
Bedell	Dreier	Hunter
Bennett	Duncan	Hutto
Bentley	Durbin	Jeffords
Bereuter	Dymally	Jenkins
Bevill	Dyson	Johnson
Biaggi	Eckart (OH)	Jones (OK)
Biliraki	Eckert (NY)	Kanjorski
Bliley	Edgar	Kaptur
Boggs	Edwards (CA)	Kasich
Boner (TN)	Edwards (OK)	Kastenmeier
Bonior (MI)	Emerson	Kennelly
Bonker	English	Kildee
Bosco	Erdreich	Kindness
Boucher	Evans (IA)	Kleczka
Boulter	Fascell	Kolbe
Boxer	Fawell	Kostmayer
Breaux	Fazio	Kramer
Broomfield	Feighan	Lantos
Brown (CA)	Fiedler	Latta
Brown (CO)	Flippo	Leach (IA)
Broyhill	Florio	Leath (TX)
Bruce	Foglietta	Lehman (CA)
Bryant	Foley	Lehman (FL)
Byron	Franklin	Leland
Callahan	Frenzel	Lent
Campbell	Frost	Levin (MI)
Carper	Gallo	Levine (CA)
Carr	Gejdenson	Lewis (FL)
Chandler	Gekas	Lightfoot
Chappell	Gephardt	Lloyd
Clinger	Gibbons	Loeffler
Coats	Glickman	Long
Cobey	Gonzalez	Lowry (WA)
Coble	Goodling	Lundine
Coelho	Gordon	Lungren
Coleman (TX)	Gradison	Mack
Combest	Gray (IL)	MacKay
Conte	Gray (PA)	Madigan
Conyers	Green	Manton
Cooper	Grotberg	Markey
Coughlin	Guarini	Marlenee
Coyne	Gunderson	Martin (IL)
Craig	Hall (OH)	Martinez
Crockett	Hall, Ralph	Matsui
Dannemeyer	Hamilton	Mavroules
Darden	Hammerschmidt	Mazzoli
Daschle	Hansen	McCain
Daub	Hatcher	McCandless
McCloskey	Rangel	Staggers
McCollum	Ray	Stallings
McCurdy	Regula	Stangeland
McGrath	Reid	Stenholm
McHugh	Richardson	Strang
McKernan	Rinaldo	Studds
McMillan	Roberts	Sundquist
Mica	Robinson	Sweeney
Miller (CA)	Rodino	Swindall
Miller (OH)	Roe	Tallon
Miller (WA)	Roemer	Tauke
Mineta	Rogers	Tauzin
Mitchell	Rostenkowski	Taylor
Mollohan	Rowland (CT)	Thomas (CA)
Monson	Rowland (GA)	Thomas (GA)
Montgomery	Russo	Torricelli
Moody	Saxton	Towns
Moore	Schaefer	Valentine
Moorhead	Schneider	Vander Jagt
Morrison (WA)	Schroeder	Vento
Mrazek	Schuette	Visclosky
Murphy	Schulze	Volkmer
Murtha	Schumer	Walgren
Myers	Sensenbrenner	Walker
Natcher	Sharp	Watkins
Neal	Shaw	Waxman
Nielson	Shelby	Weaver
Oberstar	Shumway	Weber
Obey	Sikorski	Weiss
Olin	Sisisky	Wheat
Ortiz	Skeen	Whittaker
Owens	Slattery	Whitten
Oxley	Slaughter	Wirth
Packard	Smith (IA)	Wolf
Panetta	Smith (NE)	Wolpe
Pashayan	Smith (NH)	Wortley
Pease	Smith (NJ)	Wyden
Penny	Smith, Denny	Wylie
Perkins	Smith, Robert	Yates
Pickle	Snowe	Yatron
Price	Solomon	Young (AK)
Pursell	Spence	Young (MO)
Rahall	Spratt	Zschau

□ 1040

The SPEAKER pro tempore (Mr. KLECZKA). On this rollcall, 306 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call were dispensed with.

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1985

The SPEAKER pro tempore. Pursuant to House Resolution 140 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1555.

□ 1045

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1555) to amend the Foreign Assistance Act of 1961, the Arms Export Control Act, and the Agricultural Trade Development and Assistance Act of 1954, to authorize development and security assistance programs for fiscal year 1986, and for other purposes, with Mr. AUCOIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Florida [Mr. FASCELL] will be recognized for 30 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 1555, the International Security and Development Assistance Act of 1985, is a comprehensive, 2-year foreign assistance authorization bill which deserves the strong approval of the House.

I choose my words carefully and I mean precisely what I say: This measure deserves—indeed, demands—support for three simple but important reasons: it is responsible, it is necessary, it is practical.

Above all, it is fiscally responsible. It responds to the collective determination of this country and this House to spend less.

It is also necessary in terms of programs it contains which protect vital American interests abroad. These programs include:

Military aid to our friends and allies, which strengthens free world security and enhances our own defenses, including the use of military bases to U.S. forces around the world.

Special economic assistance to areas of strong strategic interest to the United States, particularly the Middle East.

Development and humanitarian help to poor countries, which will enable them to improve their economies through self-help.

Finally, H.R. 1555 is practical in the sense that what it means for Americans is jobs, further economic expansion, and important opportunities to restore some balance to our growing and serious trade deficit.

How does it do that? It does that by responding to the fact that the economies of developing countries over the past few years have become the fastest growing markets for American products at the same time that they are the source for materials needed by American industry. It is also practical since the great bulk of the so-called foreign aid in this bill is spent right here in the United States for services and goods produced by your constituents—American farmers and workers.

Two points I want to emphasize at the start are:

First, that is essentially a freeze bill. It authorizes appropriations of $13,050,200 in fiscal 1986 and the same amount in fiscal 1987. Excluding the $525 million increase which the President asked for Israel and Egypt for fiscal 1986, the fiscal 1986 total is below the $12,774 million which Congress enacted in appropriations in fiscal 1985 for the programs under this bill.

The total also is $191 million below the President's request for fiscal 1986.

Additionally, the bill freezes all line items for fiscal 1987 at exactly the same levels authorized for fiscal 1986, with no upward adjustments for inflation or any other increased costs.

For fiscal 1985, I should also point out, there is a $1.5 billion supplemental item for emergency assistance to Israel to help Israel in its current economic crisis.

Second, it needs to be emphasized that this is the major vehicle for the Congress to exercise its influence and provide guidance in its foreign policy area. These are functions which are not and will not be carried out through a continuing resolution. And if the bill does not pass that is what we are going to get—another continuing resolution and a further weakening of the committee system in the Congress. This is not in anybody's interest.

The Congress needs an authorizing bill. Therefore, a vote for this bill will be a vote for Congress' role in foreign policy and a vote to uphold the legislative process.

Title I authorizes $6,281,271,000 in fiscal 1986 and the same in fiscal 1987 for military assistance, a reduction of $425,729,000 below the President's fiscal 1986 request. It contains cost-saving improvements in the Security Assistance Program which further reduce program costs by over $600 million.

Title II authorizes $3,900,400,000 in fiscal 1986 and fiscal 1987 for economic support fund assistance to areas where the United States has special political and strategic interests, a $123.6 million reduction below the President's request. Also, $1.5 billion is authorized for fiscal 1985 for special emergency economic assistance to Israel, and $250 million for use in event of substantial progress toward a peaceful settlement of the Cyprus dispute; $50 million a year in fiscal 1986 and 1987 would be for easier term credit for U.S. businesses in cases where they face subsidized competition from foreign companies. Also, $5 million is authorized each year to Thailand for assistance to non-Communist forces in Cambodia, including military assistance.

Title III authorizes $1,895,894,000 for development assistance to poor countries each year in fiscal 1986 and fiscal 1987, $219 million above the President's request. Increases are for population and health programs abroad and $50 million for the child survival fund.

Title IV authorizes $819,966,200 for other foreign assistance programs each year in fiscal 1986 and fiscal 1987, $124 million above the President's request. Increases are for American Schools and Hospitals Abroad [ASHA] and for U.S. voluntary contributions to the U.N. Development Program and the U.N. Children's Fund [UNICEF].

Title V authorizes and strengthens the International Narcotics Control Assistance Program including tying conditions on aid to certain Latin American countries to their antinarcotics efforts, earmarking funds for U.S. weapons to be installed on friendly country antinarcotics aircraft, and allowing U.S. agents to be present at narcotics arrest actions overseas.

Title VI sets up a scholarship program under the auspices of the U.S. Information Agency [USIA] and the Agency for International Development [AID] under which students from developing countries can come to study at American schools.

Title VII provides a policy framework for U.S. assistance to Central America designed to promote peace and democratic process.

Title VIII provides for improved programs for economic development in Africa; earmarks funds for regional programs in southern Africa; authorizes continued funding for the African Development Foundation and the Sahel Development Program.

Title IX authorizes the U.S. contribution to the second replenishment of the International Fund for Agricultural Development [IFAD]; strengthens food for peace programs extended through private voluntary agencies; provides for child immunization and farm-to-farmer aid programs.

Title X authorizes $136,100,000 each year for the Peace Corps in fiscal years 1986 and 1987, an increase of $11.7 million above the President's request.

Titles XI and XII contain miscellaneous other provisions including congressional policy statements on various foreign affairs issues. One provision creates a commission to oversee preservation of cemeteries and other facilities of historic interest to the United States because of the foreign heritage of Americans.

In sum, Mr. Chairman, this is a bill which carries out programs requested by the President as necessary for American interests abroad.

It helps our own defenses by helping those of our friends and allies abroad. It enhances our export sales and the potential growth of our markets in developing countries. It provides for humanitarian and developmental assistance to poor countries on an enlightened, self-help basis. It serves the cause of peace in areas of interest to the United States, particularly in the Middle East.

It is the best legislative vehicle we have, the principal vehicle for providing for congressional initiatives in foreign policy and otherwise carrying out the congressional role in the foreign affairs field.

And, it is a freeze bill.

I urge passage of the bill.

● Mr. HAMILTON. Mr. Chairman, I rise in support of H.R. 1555, the International Security and Development Cooperation Act of 1985.

This important legislation was passed by the Committee on Foreign Affairs in early April 1985 and authorizes appropriations for fiscal years 1986 and 1987 of over $13.05 billion annually which is nearly $200 million less than the amount requested by the administration for foreign assistance for fiscal year 1986. Excluding a $525 million increase request by the President for military assistance to Israel and Egypt in fiscal year 1986, the total in this bill is below the freeze level based on the continuing resolution appropriations which Congress voted for fiscal year 1985. This bill also authorizes some $1.75 billion in fiscal year 1985 supplemental aid, of which $1.5 billion is for Israel and $250 million is for Cyprus.

This funding, which includes military assistance, economic support and development and humanitarian assistance is an essential component of American foreign policy. These funds help protect and promote U.S. political and military interests around the world as well as help others help themselves. They also help our national economy. Some 70 percent of these funds will be spent in the United States and represent hundreds of thousands of jobs here.

The interrelationship between our ability to protect key American national interests and the economic and security programs contained in this legislation can be dramatically illustrated by a quick perusal of how H.R. 1555 affects the Middle East and Europe. These two areas are to receive over 58 percent of the funds for fiscal year 1986 and fiscal year 1987 contained in this bill.

EUROPE

In Europe, Mr. Chairman, this bill supports the continued vitality of NATO's southern flank and the strengthening of Western security interests in the Mediterranean region.

Four key NATO allies—Portugal, Spain, Greece, and Turkey—are to receive some $242 million in economic support fund money, some $285 million in grant military assistance and $1.48 billion in foreign military sales financing in addition to military training funds.

Together these four nations, along with Italy and France, have responsibilites in NATO's southern region. Today, this region is increasingly vital to Western security. The political instability of the Middle East and Africa offers a possible arena for the Soviet Union's expanded interference there and in the Mediterranean, where its navy is already strong. We must help these nations, for they are a bridge linking the United States and the At-

lantic to the Middle East and Persian Gulf.

In each of these four countries the United States has important military facilities access agreements. Each access agreement is critical for the United States and the four agreements, taken together, provide the United States a critical link across the northern edge of the Mediterranean Sea. These allies look to the United States for assistance to augment their own contributions to Western security. All of these countries are upgrading their military forces and need American assistance and equipment. Thus, the assistance provided to these countries is among the most efficient forms of national defense expenditures and can make a substantial addition to U.S. national security interests and world peace.

Given Greece's important geopolitical location and our mutual security interests, Greece's continued close relationship with the United States is of vital importance. Therefore, there is $498.25 million in security assistance for Greece in this bill. Greece has a socialist government and we have had differences with that government over the last 3 years, but we also have a mutual stake in maintaining a close and trustful dialog with that government and in preserving our security relations. Our long-term mutual interests will outlast our differences with any single government. Greece moves to parliamentary elections June 2 and we must hope that our dialog with Greece can improve in the aftermath of the elections.

Greece and the United States remain deeply intertwined nations. Many or America's leading citizens are of Greek lineage. The essence of our political cultures are the same. America's system of government is descended from Greece—the cradle of democracy.

Turkey is also an important country for the United States and its contribution to NATO is critical. Turkey is NATO's major link with the Middle East. It is the only Islamic member of NATO. We need to help Turkey with its economic and military needs in part because we should support Turkey's own impressive efforts to rebuild its country and economy. We should also encourage the ongoing political changes in Turkey, especially the return of a democratically elected government. The United States does have differences with Turkey on the Cyprus issue and on some human rights matters and these issues affect policy, but it is also true that Turkey, an Islamic nation, is a key pro-West country in a turbulent region with common borders with such states as Bulgaria, the Soviet Union, Iran, and Syria. We neglect Turkey at our own peril. This bill contains $740 million in military assistance, $150 million in economic aid and $4 million in military training for Turkey.

The $15 million fiscal year 1986 economic aid program supported by this bill for Cyprus is another key sign of strong U.S. support for this island nation. Continued U.S. assistance supplements efforts to help facilitate a negotiated settlement of the Cyprus dispute. The frustrations of many Americans over the lack of progress toward a settlement of the Cyprus dispute is understandable, but I hope my colleagues realize that some progress has occurred in Cyprus intercommunal talks under U.N. auspices and we can perhaps look forward to renewed negotiations in the near future. I am sure my colleagues are aware of the continued importance of U.S. economic assistance for Cyprus to help deal with humanitarian, economic development and educational needs of the Cypriot people and to help implement any Cyprus agreement which the parties may reach. In recognition of this possibility, a $250 million Cyprus reconstruction fund has been authorized in H.R. 1555 as a fiscal year 1985 supplemental. This action was taken pursuant to a Presidential request last May.

Spain is another country in Europe which is key to Western defenses. Even now it seeks to integrate its military more effectively into the Western security system. Democratic Spain will receive both economic and military assistance in this legislation. This assistance, which contains $400 million in FMS credits, $12 million in economic aid and $3 million in military training, is pivotal if Spain's membership in NATO is to be solidified and we are to build a constituency for NATO in Spain. It will also help Spain's democratic government define a new and clear role for its military forces.

Portugal is also to receive substantial economic and security assistance in this bill—$138 million in security assistance and $80 million in economic aid. The United States renewed its bilateral base agreement with Portugal in December 1983, which gives the United States continued use of Lajes Air Base in the Azores Islands. U.S. assistance will promote Portugal's security, strengthen its democracy, and enhance its contributions to NATO and the defense of Western security as well as help alleviate the financial burdens of Portugal's troubled economy. It is in our interest to help Portugal economically because Portugal is already taking difficult steps to help itself through austerity programs.

Mr. Chairman, our assistance programs for these four NATO allies buttress vital Western security interests. Without this assistance, American access to key military facilities is compromised and the ability of our allies to strengthen their own defenses is weakened. NATO's southern flank is vital to our interests and we must not let its security be undermined.

MIDDLE EAST

Mr. Chairman, the Middle East will receive over 40 percent of the funds authorized in fiscal year 1986 in this bill. These funds are closely related to American efforts to promote and expand the Middle East peace process and to strengthen the moderate forces in the region. While efforts to find a basis to restart the Middle East peace process proceed in the coming weeks and months, it is critically important to maintain the security and economic well-being of our friends in the region in the expectation that new opportunities for further progress toward a comprehensive peace will be created and that no party will foreclose those possibilities.

H.R. 1555 provides for:

An authorization for Israel in fiscal year 1986 and fiscal year 1987 of $3 billion annually in economic and military assistance to be provided on a grant basis. The United States has a historic commitment to Israel's security and economic well-being and U.S. assistance provides a tangible demonstration of the strength and durability of that commitment. The United States seeks to give Israel the confidence to take the risks necessary to pursue the peace process. It is a continuing principle of U.S. security assistance to enable Israel to maintain a qualitative edge in military technology in the Middle East. This is especially important because of the Soviet shipment of sophisticated arms to other countries in the region, and especially to Syria.

A fiscal year 1985 supplemental authorization for Israel of $1.5 billion to be provided over 2 years to supplement Israel's own efforts to correct its economic problems. The extraordinary assistance is intended to give Israel some breathing space while its own new programs begin to take effect. Israel has undertaken some important steps but I think a vast majority of Israelis understand that further action is essential if this supplemental assistance is to be successful in helping Israel help itself at this time of economic hardship in that country. The United States and Israel are in the process of working out together important understandings about this assistance and its implementation. That process must go forward. We must all realize that in the final analysis, this one-time extraordinary U.S. economic aid can only be a supplement, not a substitute, for Israel's own efforts to reform its economy.

An authorization for Egypt for fiscal years 1986 and 1987 of some $2.3 billion annually, including $1.3 billion in military assistance, $815 million in economic assistance and $213 million in food aid. Egypt remains critical to

the success of U.S. regional political and strategic policies and these requests support U.S. policy. The United States and Egypt have a shared strategic interest in the stability of the Middle East and the surrounding region, especially Africa, and a shared strategic commitment to a peaceful solution of the Arab-Israeli conflict. Egypt has been an active partner in the Middle East peace process, and continued Egyptian support is crucial to its ultimate success. The Mubarak government publicly supports the President's September 1, 1982, peace initiative and is currently encouraging Jordan to enter the peace process and engage in bilateral efforts with Israel to improve their ties.

Smaller authorizations for economic and military assistance for other countries in the region: Jordan is to receive $122 million; Oman $60 million; and the Yemen Arab Republic $41.5 million. We have important ties to these countries and a stake in what happens to each. Our programs with these countries promote broad U.S. policy objectives in the Middle East. In the case of Oman, our program is directly related to a military facilities access agreement for U.S. forces; Oman is located near the entrance to the Persian Gulf and abuts the Straits of Hormuz.

And an authorization of $26 million for special Middle East programs to promote regional cooperative programs involving both Israelis and Arabs, economic development projects in the critical West Bank and Gaza area where significant proportions of the Palestinian people live, and regional program support and development. These programs are small in amounts but touch the lives of many people and promote the cause of peace.

Mr. Chairman, the United States continues to have a stake in what happens in the Middle East. We cannot walk away from the region because of frustrations with the peace process. We have important and interrelated interests there in the stability and well-being of friends, in access to oil, in reducing the tensions of regional conflict and in preventing the Soviets from obtaining an enhanced position in the area. These funds help us in promoting those interests. Without these programs, efforts to energize the peace process will be hampered.

SUMMARY

In conclusion, Mr. Chairman, I wish to reiterate my support for H.R. 1555. Many Members may feel it is not a good time for any foreign aid bill and that the mood of the American people is against the legislation in general and for an absolute freeze of funding levels in particular. Given our significant domestic needs and priorities, the amount of resources being provided for assistance overseas is declining. But we must remember that we cannot confront the foreign policy challenges we face and counter aggressive policies of our adversaries without the prudent use of economic and military assistance programs such as those contained in H.R. 1555. This bill supports key national interests overseas, promotes trade, and represents well over 400,000 jobs for Americans.

Mr. Chairman, let me add one final plea. This bill strikes a careful balance between security and economic programs and contains important policy guidelines. If there are any freeze amendments which might cut the amendments in the bill, I would hope that the amendments retain this important balance. A meat ax cut would not represent the interests of the Nation or the balanced interests of the Members of the House. We are only still in the early stages of the congressional process on this legislation and I am sure that over the coming months many of the provisions of this legislation with which some of my colleagues disagree can be modified.

Mr. Chairman, I urge the adoption of H.R. 1555 to let the authorization process proceed.●

Mr. BROOMFIELD. Mr. Chairman, I yield myself such time as I may consume.

Mr. McKERNAN. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I yield to the gentleman from Maine.

Mr. McKERNAN. Mr. Chairman, I thank the gentleman from Michigan for yielding to me.

Since it is my understanding that this weekend the Interparliamentary Conference between the United States and Canada will be held, I want to put the House on notice that next week, during the amendment process, I intend to offer an amendment to this bill to encourage the bilateral resolution of problems facing Canada and the United States. I commend the President for his efforts in this area.

Mr. Chairman, as we debate the foreign assistance authorization bill, we are shaping the course of our foreign policy. Something that should not be forgotten in this debate is how our foreign policy interacts with our economic relationships with other nations.

The tool of economic cooperation is powerful. It can be applied most directly and postively toward our trade relationship with underdeveloped countries. President Reagan's Caribbean Basin Initiative is a prime example of the importance of pursuing progressive and productive trade relationships in this hemisphere.

We also must not overlook the importance of continuing to improve our trade relations with the developed nations. Healthy and cooperative partnerships in trade not only ensure strong economies in the industrialized nations, but such partnerships also have a ripple effect that benefits all nations.

For this reason, I have a strong interest in working to improve the trade relationship between the United States and its biggest trading partner—Canada. Overall, we have positive trade relations with our friend to the north. There continue to be, however, specific, unresolved issues that mar this relationship. I believe that it is important that attention continue to be drawn to these issues.

For my State of Maine, these trade problems are particularly serious. The major concerns involve Canadian exports of potatoes, lumber, and fish. Exports, in large part subsidized by Canadian Federal and Provincial governments, have placed our Maine industries in jeopardy, inhibiting their growth potential.

Maine is not alone in its trade problems with Canada. States in the northwest with significant lumber industries, confront problems similar to those affecting Maine and there is also a host of other issues adversely affecting the United States which need to be resolved, including subsidized Canadian freight rates, Canadian Federal sales tax on tourist literature entering their nation, and hog and pork exports.

Mr. Chairman, House and Senate Members are going to Ontario this weekend to participate in the annual meeting of the Canada-United States Interparliamentary Group. This meeting gives Members of both the U.S. Congress and the Canadian Parliament the opportunity to discuss at length bilateral trade concerns.

Our trade relationship with Canada deserves attention from legislators on both sides of the border. Because of the need for Congress to continue to look closely at this trade relationship, I plan to offer an amendment to the foreign aid authorization bill that calls for increased efforts to resolve Canadian-United States trade problems and requires the President to report to Congress on efforts to settle these problems.

The passage of this amendment will help us focus on the need to put equity in our trade relationship with Canada. I urge my colleagues to support this amendment when it comes before the House.

Mr. BROOMFIELD. Mr. Chairman, let me begin by saying that the administration opposes the committee bill, and, as well, it has not endorsed the substitute which I will be offering. As a matter of fact, the executive branch, including the OMB, opposes both the committee bill and the substitute that I plan to offer.

It seems that the administration, as far as my bill is concerned, wants more money for the military portion than I believe Congress and the American people will support.

At the outset, I want to compliment my friend, the gentleman from Florida [Mr. FASCELL], the distinguished chairman of the Committee on Foreign Affairs, for doing an admirable job in shepherding the committee through the markup of this very complex bill. Regrettably, he was unable to persuade the members of the committee to keep a sense of proportion on what I believe is the total price tag of this bill.

The bill before us, as reported by the Committee on Foreign Affairs, represents a staggering authorization for foreign assistance of more than $13 billion for each of the next 2 fiscal years, fiscal year 1986 and fiscal year 1987, for a total 2-year authorization of over $26 billion.

A breakdown of this amount will show that our ally and friend in the Middle East, Israel, alone would receive grants of $6 billion, nearly one-fourth of the 1986 and 1987 total, plus a 1985 supplemental of $1.5 billion under the previous provisions of the bill.

Also I point out that in this bill Egypt would receive $4.3 billion, that is, 16 percent of the total, all in grants. That is for both countries.

To address the shortcomings of the committee bill, I will be offering a nonamendable amendment in the nature of a substitute. Again I point out, Mr. Chairman, despite the administration's opposition, my approach is a workable compromise. It reduces the total foreign aid authorization for fiscal year 1986 by $50 million below the 1985 appropriation bill. This is truly below the freeze, and it freezes the level for fiscal year 1987, too. My proposal also remedies the numerous ambiguities in the committee's version of the bill.

The substitute I will be offering reduces the total authorization for each of the years, 1986 and 1987, by more than $325 million below the committee level and more than $516 million below the administration's request. On a 2-year, straight-line basis, my substitute would represent more than a $650 million reduction from the committee's 2-year bill. It is more than a $1 billion reduction from the 2-year level of the administration's request if we make the optimistic assumption of straight lining the request for fiscal year 1987. The Broomfield substitute maintains the same levels and earmarks, as the committee bill, for AID programs to Israel and Egypt, including, as I mentioned earlier, the $1.5 billion for the economic support supplemental for Israel.

In a shortsighted move, I believe, the committee decided that about the only area in which it would reduce funds is in the military area. The committee made a total cut of more than $425 million below the President's request in order to partly offset its hefty increases in favored economic aid accounts.

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There is no doubt that the so-called longer term economic development aid is an important and necessary part of a foreign aid program; however, there are equally important international problems requiring military assistance as well. My amendment would restore a modest amount to the FMS and MAP accounts. It would bring the total for all military aid accounts to within about $1 million of the fiscal year 1985 levels, not including again the $525 million increase in forgiven FMS for Israel and Egypt. While my approach has held security assistance somewhat below last year's appropriations levels, this lower amount is still adequate, in my judgment, to meet the minimum security requirements of our friends around the world.

There is no doubt that appropriate foreign aid programs do attempt to address important U.S. interests in security and equitable economic growth; but I strongly believe, Mr. Chairman, that foreign aid cannot be overlooked when significant cuts must be made in our Nation's budget. There are many domestic programs which serve vital national interests, too. They must be maintained. We must be fair in seeing that our foreign aid programs bear a reasonable share of the burden of helping to reduce the budget deficit.

While my substitute does not have administration support, at least at the present time, it is a fair compromise. It is also mindful of the need to trim our large budget deficits in an evenhanded way. It improves some of the policy language in the committee bill.

For these reasons, I hope the committee will support the substitute bill.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. BROOMFIELD. I am happy to yield to my friend, the gentleman from Michigan.

Mr. PURSELL. Mr. Chairman, as I understand, the gentleman's substitute would be below the 1985 appropriation in the current law; is that correct?

Mr. BROOMFIELD. That is correct.

Mr. PURSELL. Does the gentleman have an idea of the number of dollars, how far below?

Mr. BROOMFIELD. At least $50 million.

Mr. PURSELL. At least $50 million?

Mr. BROOMFIELD. Yes.

Mr. PURSELL. And then I understand the committee bill that is in front of us is also below the 1985 appropriation, or did I misunderstand that?

Mr. BROOMFIELD. I think according to our figures, the gentleman misunderstood that.

Mr. PURSELL. The present committee bill is above the 1985 current law?

Mr. BROOMFIELD. It is $275 million, I am told.

Mr. PURSELL. It is $275 million over 1985, based on the additions that the full committee made?

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. PURSELL. I would be happy to yield.

Mr. FASCELL. We did not make any additions. This was the President's request for additional money for Israel and Egypt that was not in the 1985 appropriations. All we did was grant the President's request, which totaled an additional $525 million; but because of the cuts we made elsewhere in the bill, we reduced that aggregate increase overall down to $275 million.

In other words, we were able to absorb that much by making cuts below the 1985 appropriation level in other accounts.

Mr. PURSELL. But irrespective of the President's mark, which I understand is above the current law, the committee bill is also above current law and the gentleman indicated that it is because of the President's mark; is that appropriate?

Mr. FASCELL. That is absolutely right; but if you eliminate that, to look at it in a different way, eliminate the additional amount requested by the President for Israel and Egypt, the bill by that measurement is below the 1985 mark.

Mr. PURSELL. Mr. Chairman, if the ranking member will yield further, in principle we have had four major authorization bills here; NASA, the Bureau of Standards, the National Science Foundation, and the State Department bills, principally they have been kept to the current legislation of the freeze of 1985. How could we now move above that freeze level with this committee bill, irrespective of the President's position?

Mr. FASCELL. Well, an amendment can just be offered to knock out the money for Israel and Egypt. That is one way to do it, if we want to do that.

Mr. PURSELL. Or we could reprogram that total amount, including Israel and Egypt, and reprogram it percentagewise within the aggregate amount within the current 1985 level.

Mr. FASCELL. The gentleman is absolutely right.

That is certainly a possibility. But let me point out further what can happen when you try that.

The gentleman from Michigan, who has expressed concern about insufficient military assistance, if I understood the gentleman correctly, has $805 million for that purpose in his substitute.

The committee has $761 million. To do what the gentleman is talking about, we would have to reduce that amount and then we would have to

take money out of the economic support fund also.

Yes; it can be done, but somebody would have to offer that amendment and the House would have to work its will. If that were to happen, then we would have to absorb the $275 million.

Mr. PURSELL. I see.

Mr. FASCELL. Mr. Chairman, if the gentleman will yield further, one of the things we did, recognizing the point the gentleman makes, which is very valid, is that we took other legislative action in this bill to produce an additional $500 million that goes to the Treasury that was not produced before.

Now, that does not help the bottom-line in this bill in terms of the freeze application, but it is a $500 million help to the taxpayers.

Mr. PURSELL. Especially, as I understood the gentleman's comment earlier, we have a $1 billion supplemental for 1985.

Mr. FASCELL. Well, a billion and a half for Israel.

Mr. PURSELL. A billion and a half.

Mr. FASCELL. And that is not all.

Mr. PURSELL. That is worse.

Mr. FASCELL. That is not all. I do not know what else is coming in the supplemental appropriation, I really do not.

Mr. PURSELL. So in this case, we could have the administration opposing the bill because it is too low.

Mr. FASCELL. Well, that is quite possible.

Mr. BROOMFIELD. I can answer that. They are already doing that.

Mr. FASCELL. The gentleman from Michigan has worked very hard and we have worked together in trying to bring a sensible bill to the floor; but the problem the gentleman has is that he ran into objections from the administration, who said, "You know, you are cutting our heart out."

They do not like our bill because we cut below the President's request and put in some statements that they do not like. We have the unusual situation, I might add, that in the other body they did worse than that. They did not support the President at all.

Mr. BROOMFIELD. That is exactly right.

Mr. PURSELL. But at this point, we are trying to find a common ground here so that we can stay consistent with all the authorizations.

Mr. FASCELL. Absolutely.

Mr. PURSELL. And eventually in the appropriation bills, so that we maintain the budget mark that the gentleman is going to be presenting in the budget resolution next week.

Mr. FASCELL. The gentleman raises a very good point in referring to the budget mark.

Let me just say that between the gentleman from Michigan, and myself, and the rest of the members of the committee, we think we have done well by making the cuts that we have.

Mr. PURSELL. Can I ask a further question with respect to the budget mark that has arisen over in the Budget Committee?

Mr. FASCELL. I was afraid that the gentleman was going to ask that. I do not know how to handle that budget mark.

Mr. PURSELL. Well, we are premature here in looking at this legislation without the budget ahead of us, and I realize the Armed Services Committee has the same problem, so we are going to lift this bill, as I understand it, and move it to a subsequent date to consider amendments and maybe by then we might know what the mark is in the House. We know certainly what the mark is in the Senate in respect to trying to maintain a basic freeze, because a basic freeze only gives us $32 billion in the aggregate overall, so we have to look at other programs; and so to treat foreign aid consistently with the State Department, NASA, and all the other programs, I think it is incumbent that we try to work our will here with an appropriate compromise.

Mr. FASCELL. I cannot argue with the gentleman, if he will yield further, but from the rumors I hear about what the budget mark is going to be, I do not know how you are going to handle that. The international affairs 150 account is taking a whipping; but nevertheless, the point that the gentleman raises is valid.

Mr. PURSELL. I thank the chairman.

Mr. FASCELL. Mr. Chairman, I yield 6 minutes to the gentleman from Pennsylvania [Mr. KOSTMAYER].

Mr. KOSTMAYER. Mr. Chairman, I want to begin by commending the distinguished chairman of the full committee, the gentleman from Florida [Mr. FASCELL] for the magnificent job he has done in handling this legislation and bringing it to the floor.

I also want to commend the ranking member of the committee, the gentleman from Michigan [Mr. BROOMFIELD] for his hard work.

Mr. Chairman, 20 years ago the Congress authorized in the very best bipartisan sense one of the most important aspects of American foreign policy, which is under severe attack in the current Congress. That was legislation authorizing, for the first time, funds for voluntary family planning assistance in the developing world.

Last evening, in the other body when similar legislation was adopted, unfortunately an important provision which the House committee inserted, authorizing $320 million for population, was very badly damaged.

It is my understanding that when this legislation comes to the floor of the House, our distinguished colleague, the gentleman from New Jersey [Mr. SMITH], will offer similar amendments, with due respect to my colleague, the gentleman from New Jersey, will undermine very severely these most important provisions of the Foreign Assistance Act.

Mr. Chairman, there are essentially two targets for these amendments. The first is the U.N. Fund for Population Activities, and the second is the International Planned Parenthood Federation.

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The objections which we will hear to the $46 million which we authorized to the UNFPA is that the UNFPA currently has a modest program in China. The Chinese Government's population program is one which we have heard a great deal about lately and one which all of us feel very strong objection to for a number of the things which are happening in the People's Republic of China.

But I think there are a number of things which are very important to recognize. First of all, the U.N. Fund for Population Assistance Program in China is distinct from and in no way involved in the coercive aspects of the Chinese program. This has been affirmed by the Reagan administration. AID has certified and given to the UNFPA a clean bill of health for the manner in which it operates in the People's Republic of China.

Second, no U.S. funds which go to the UNFPA are used in the People's Republic of China. Those funds are held in entirely separate accounts and not a single cent of American money is used in any way directly or indirectly in the UNFPA Program in China.

The UNFPA I think, and I think AID officials would agree, acts as a moderating and a restraining influence on the program in China.

But what will happen if the amendment to be offered by the gentleman from New Jersey [Mr. SMITH] is agreed to, an amendment which would reduce by one-third the budget of the UNFPA, a cut of $46 million.

That amendment, if it is adopted by the House, will not affect the program in China at all but it will cripple the programs in 115 other countries in which the UNFPA operates. It will do severe damage to the voluntary family planning programs in other countries while not affecting the program in China at all because no U.S. money is spent there.

The second amendment which I believe our friend from New Jersey [Mr. SMITH] will offer, has to do with the International Planned Parenthood Federation. In December of last year, the administration cut the $17 million which the United States provides to the International Planned Parenthood Federation. The Foreign Affairs Committee in its deliberations restored that $17 million.

That $17 million is one-third of the IPPF budget. But the gentleman from

New Jersey [Mr. SMITH] believes that the United States should not provide any funds at all to IPPF because of the following reason: Of the entire $50 million IPPF budget, $17 million of which comes from the United States, of that, $300,000 is spent for materials, training, and services in activities related to voluntary abortions. None of that $300,000 is American money.

IPPF is an organization which is doing vital work in the Third World.

Yet, because of that small expenditure for entirely legal activities in certain countries, we would undermine the entire program.

Finally, Mr. Chairman, I was in Ethiopia last November and saw the terrible suffering there. In Ethiopia, the food production is declining on a yearly basis, yet the population is increasing at an annual rate of 3.7 percent. In India, there are 1 million people born every 30 days. In Nigeria, in just 76 years, there will be as many people as there are currently in the People's Republic of China.

Mr. Chairman, this is a modest, yet desperately important program. I would ask the House when the foreign aid bill comes before us to resist those amendments to be offered and to support the committee and, indeed, to support the administration on allowing these funds to be expended.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. KOSTMAYER. I am happy to yield to the gentleman from Florida.

Mr. FASCELL. I want to commend the gentleman in the well for his leadership on this issue in the committee. He was very, very persuasive because the committee position in the bill is a position of the majority of the committee that supports this viewpoint. I would hope that we could keep this small amount of money in the bill.

Mr. KOSTMAYER. I thank the chairman.

Mr. BROOMFIELD. Mr. Chairman, I yield 7 minutes to the gentleman from New York [Mr. SOLOMON], a member of the committee.

Mr. SOLOMON. I thank the gentleman from Michigan [Mr. BROOMFIELD] for yielding me this time.

First of all, in rising to oppose the committee bill, let me make two points.

One, even though the bill does carry the dollar figures that the administration has asked for, I would like to point out that President Ronald Reagan is only right 99 percent of the time, and 1 percent of the time he is wrong. And that is when he is offering this bill as far as the dollar figures are concerned.

In rising to oppose the bill also I would like to in no way diminish from the work and the efforts that our outstanding committee chairman, the gentleman from Florida, DANTE FASCELL, and his staff, as well as the ranking member, the gentleman from Michigan, BILL BROOMFIELD, and his staff, and the tremendous job they have done. Any time you try to develop a foreign aid bill and you try to satisfy people like President Reagan, and you try to satisfy people like GERRY SOLOMON, and DANTE FASCELL, and all of the others from the liberals to the conservatives, you have an almost impossible job. So I say to the gentleman from Florida [Mr. FASCELL], you have done an outstanding job and so has the gentleman from Michigan, BILL BROOMFIELD.

Mr. Chairman, a number of my colleagues from this side of the aisle have outlined the serious problems with this foreign aid bill, problems that will have to be addressed by a large number of amendments if this bill can command any support at all from conscientious Members of Congress, let alone the support of the American people and I certainly concur with the statements that have been made.

I would like to take a few moments right now to discuss a particular aspect of the bill that I find very troubling because I am greatly concerned about what the committee has done concerning the aid package for the Philippines. It would seem that we engage in this little shell game every spring. The administration comes down here and proposes a well-conceived and well-balanced package of security and economic assistance for the Philippines, which the committee then tinkers with to front load the package with ESF and to shortchange the security assistance. Under this bill, the administration's FMS proposal for the Philippines is eliminated altogether, and the proposed military grants for the Philippines are cut in half.

It may be that the committee wants to insulate itself from any eventuality that may occur in the Philippines—to be on the right side of history as some might put it—but this bill is simply not the way to help an ally in need. Once again the foreign aid bill is raising the bogeyman that security concerns and economic needs in the Philippines are mutually exclusive. This one-dimensional approach to foreign policy has become almost obsessive because the problems in the Philippines today are political, economic, and military. We must address all three simultaneously if we are to address them at all. It is neither honest nor courageous for us to choose one problem, neglecting the others and wishing that the areas we are neglecting will somehow take care of themselves.

What the committee chose to ignore in its juggling act on this bill is that the Philippines Government has worked with the IMF to introduce austerity measures and across-the-board spending reductions in all areas of the public budget. Military spending, even during a time of insurgency threats, has been reduced by more than one-third—to a level now amounting to little more than 1 percent of GNP.

The committee chose to ignore that even if the administration's security package for the Philippines would be approved in its entirety, the funds made available would be enough to maintain only the status quo, to make up for last year's reductions and to allow the Philippines Armed Forces to repair existing equipment and deal with other maintenance problems. Moreover, a sizable portion of the administration's security package is devoted to civic action projects like road-building and public health services in areas of the Philippines that are affected by the insurgency of the Communist New People's Army.

I plan to offer an amendment that will restore the original mix of security and economic assistance in the administration's proposal for the Philippines. After having visited the Philippines in April and talking with President Marcos, I am more convinced than ever, that now is the time to be standing shoulder to shoulder with our friends in the Philippines. They are the indispensable link in our chain of defense in the Western Pacific and Southeast Asia and we owe it to them as allies to help them with their needs.

Let me just conclude, Mr. Chairman, by making one other observation about this bill. One of the things I find most offensive about this particular bill is the manner in which it shortchanges friends—such as the Philippines—and loads up with all kinds of extraneous programs and spending schemes for countries and organizations of dubious worth. This problem comes into special focus when one realizes that this bill is more than $400 million above last year's continuing resolution.

I plan to offer an amendment that will make sure that the aggregate total of spending authority in the bill will not exceed by one penny what is contained in last year's continuing resolution. At a time when we are asking the American people to make sacrifices, it makes no sense at all to continue pouring billions of dollars into countries and programs that are neither grateful nor responsible for the support we give them. In its present form, this bill does not provide an appropriate or plausible venue for the conduct of American foreign policy.

□ 1120

I made a statement on the floor yesterday that we have had "Dear Colleague" letters and we have had resolutions being circulated asking for us to cosponsor them which would reinstate the tax exemptions on local taxes for government, put that back in the budget, put back in revenue sharing, put back all these things, and I

mentioned that I had accumulated all these "Dear Colleague" letters and resolutions which totaled the entire $50 billion deficit reduction program that President Reagan has offered to us.

If we enacted all of them we would have no deficit reduction and we would go back to the 14-percent Jimmy Carter inflation, we would go back to the 22-percent interest rates of Jimmy Carter. We cannot do that.

So here is your chance, ladies and gentlemen, when I offer my amendment tomorrow or whenever this bill comes back on the floor to cut this bill back by $400 million, just to last year's level, I want you to support it because then I might support one of your recommendations to reinstate revenue sharing or some of these other programs.

Just think about these things until next week when we come back, and we will have a good bill when we are finished.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. I thank the chairman for yielding.

I was interested in the previous speaker's criticism of the administration's excessive request for foreign aid. But that is not the subject that I wanted to address.

The nation of Portugal has been a very strong ally of the United States and it has been one which in recent years has made that transition from a repressive regime to a thriving democratic regime. So that we now have both from the human rights standpoint and from the geopolitical standpoint a strong ally.

The committee, under the very able leadership of the gentleman from Florida [Mr. FASCELL] has been very generous in recognizing that relationship. I know the gentleman from California [Mr. COELHO] and I both have a particular interest in that relationship.

I wonder if the chairman [Mr. FASCELL] could confirm for us the particular figures which, while not written into the bill, are the intention of the committee to be conveyed to Portugal if the bill is passed as written.

Mr. COELHO. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from California who has the figures.

Mr. COELHO. I thank the gentleman for yielding.

Mr. Chairman, in the subcommittee report they basically said that it was the intent of the subcommittee that the $80 million for economic support fund and $70 million for military assistance and $65 million for the foreign military sales, that was the intent of the subcommittee and it was not in the full committee report.

The gentleman from Massachusetts [Mr. FRANK] and I were wondering as to whether or not it is the full committee's intent that this money be given to Portugal.

They have been a great, willing partner of the United States. The President, as you know, was just there.

The relationship between our two countries is probably at the best that it has been in years. We were just wondering what the intent of the full committee was.

Mr. FASCELL. If the gentleman will yield, let me assure the gentleman from California [Mr. COELHO] and the gentleman from Massachusetts [Mr. FRANK] that the full committee is very well aware of Portugal's importance as a close and friendly ally. We have supported fully in the committee and in the subcommittee, as the gentleman pointed out, the President's requests for Portugal in all fields, foreign military sales, grant military assistance, and economic support funds.

This bill that is before us now accommodates all of those requests for Portugal.

Mr. FRANK. Mr. Chairman, I thank the gentleman and the gentleman from California [Mr. COELHO].

The gentleman from California and I, as well as my colleague from Massachusetts who serves on the committee [Mr. STUDDS] and the gentleman from Rhode Island and the gentlewoman from Rhode Island have a particular interest in the Azores.

Mr. Chairman, we note with some satisfaction what the chairman says because the economic support funds in particular are generally passed along to the regional government of the Azores in recognition of their very strong cooperation with the United States through the Lajes Base.

So that makes us particularly satisfied.

Mr. FASCELL. The gentleman from Massachusetts [Mr. FRANK] raises a very good point. That is one of the things which even the gentleman from New York who preceded us [Mr. SOLOMON] was trying to make with respect to our base-rights agreements with these important allies. That is a reason why this bill is so important in the security interests of the United States.

Portugal is a country with whom we have a good and friendly relationship. Our security interests are directly involved.

Mr. COELHO. And in the case of Portugal they have agreed to the extension of the lease with regard to the Air Force base there.

Mr. FASCELL. They have been totally cooperative, the Government and the people of Portugal have been totally cooperative and we recognize that in this bill.

Mr. FRANK. I thank the gentleman from Florida.

Mr. COELHO. I thank the gentleman from Florida.

Mr. BROOMFIELD. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. GILMAN], a member of our committee.

Mr. GILMAN. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 1555, the International Security and Development Cooperation Act of 1985. As a member of the Committee on Foreign Affairs, I believe the previous remarks of our distinguished chairman, the gentleman from Florida [Mr. FASCELL] and the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD] have described effectively the need this year for passage of a foreign assistance bill. I want also to associate myself with the remarks of the chairman of the Subcommittee on Europe and the Middle East, the gentleman from Indiana [Mr. HAMILTON]. I have had the privilege to serve as the ranking minority member on that subcommittee, and I want to commend the gentleman from Indiana for the diligence and well-reasoned approach he brought to the consideration of the issues before our subcommittee which have a high priority on our Nation's foreign policy-making agenda.

The measure before us authorizes for the fiscal year 1986 approximately $13 billion for those programs necessary for the conduct of U.S. foreign policy. As the committee report notes:

> Excluding the $525 million increase requested by the President for military assistance to Israel and Egypt in fiscal year 1986, the total is below the freeze level based on the continuing resolution appropriations which Congress voted for fiscal year 1986.

The legislation provides needed economic and military support to Israel as that long-time ally of the United States struggles to get its economic affairs back on track and to assure that its defenses are strong to combat forces hostile to United States and Israeli security interests. The measure also contains aid for Egypt in the hope that nation can participate effectively in the process that seeks a lasting peace in the Middle East.

The measure contains carefully prepared provisions enabling the United States to respond more effectively to the problems of global hunger and malnutrition and to the spreading menace of international narcotics trafficking.

In other areas, H.R. 1555 provides funding to meet our Nation's commitment in many regions of the world including, for example, with those nations which we have base rights agreements.

Mr. Chairman, my colleagues and I on the committee devoted a substan-

tial amount of time and attention to the consideration of the measure under discussion. There will be some areas of the bill which I am sure will receive considerable scrutiny as alternative proposals are debated by the House. It is my hope, however, as our deliberations unfold, that discussion can proceed in a manner that seeks to produce legislation that can respond effectively to the foreign policy challenges our Nation faces. It is important, Mr. Chairman, that we adopt a measure which can be guided through the legislative process this year and which can serve as the principal vehicle for articulating congressional concerns and proposals for the conduct of foreign policy.

□ 1130

Mr. BROOMFIELD. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman for yielding to me. Mr. Speaker, it seems to me that one of the things that the American people have been screaming for in terms of foreign aid is to at least assure that if we are going to put money out overseas that we assure that we get it to our friends, that we use our foreign aid money to support those people who have a policy which is friendly toward the United States.

When we get to the appropriate time, and I understand that may be a matter of weeks instead of days, I intend to offer an amendment aimed at that kind of a foreign policy option.

It essentially takes the Kasten amendment that was placed in the supplemental appropriations bill last year and expands upon that by saying that if a country does not vote with us at least 15 percent of the time in the United Nations, that they would be regarded as an unfriendly nation, and that the President would have to certify to Congress that, for national security or humanitarian reasons, that they be waived in order to get foreign assistance rather than having them automatically into the foreign assistance stream.

In other words, you would have to be with us at least 15 percent of the time up in the United Nations to be regarded as a friend. Now that does not seem to me to be a very tough obligation. In fact, the reason for that figure is that is about the amount of time that the Soviet Union votes with us. We get the Soviet Union to vote with us up in the United Nations about 15 percent of the time.

So all we are going to do is require that nations vote with us at least as much as the Soviet Union does before we start pouring foreign aid out across the world into these countries.

So this amendment would be aimed at attempting to achieve that particular goal. It should not be surprising to many that there are a number of nations in the world which in fact vote with us at the United Nations less times than the Soviet Union does.

I would propose in my amendment to first of all have a constant report as to who those nations are; and then assure that we are not giving foreign aid. The fact is that most of those countries do not receive foreign aid now.

I think what we need to do is say to the American people that, you have our assurance that we are not going to begin to pour your tax dollars into countries that are not in compliance with some kind of a voting pattern, that it assures friendship with the United States.

The American people are disgusted, in all honesty, with a program that continues to pour out money, often to no avail. This is an attempt to begin to tighten down. I think that some aspects of American foreign policy need to get tough.

In fact, we had a vote on the House floor the other day which showed that the American people are willing to get tough and their representatives are willing to get tough when we voted on the question of how to deal with the Major Nicholson matter.

The gentleman from Michigan, I think, courageously brought to the floor an amendment that finally got tough with that particular aspect of our foreign policy.

I think this body ought to get tough in some other aspects; particularly how we spend our money in foreign policy, and here is a chance with an amendment to get tough again, by saying that we are going to give money across this world, when we do it, only to people who can be certified as friends of the United States.

Mr. FASCELL. Mr. Chairman, I yield 4 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise to commend you on your efforts and leadership in the sometimes difficult job of chairing a most important committee and on your hard work on this bill.

As you know, Mr. Chairman, in recent weeks I have seriously considered offering an amendment to H.R. 1555 that would have stripped out a significant amount of United States assistance to Haiti.

The Government of Haiti continues to commit egregious violations of human rights. These were once again highlighted, recently by several groups appearing before the Human Rights Subcommittee. Besides grinding poverty, the people of Haiti are forced to live without the simplest of liberties and political dignity that so many Americans take for granted. For reasons such as this, I am a cosponsor of a resolution introduced by Congressman OWENS, calling for the withdrawal of the determination that the Government of Haiti is making progress toward human rights and political reform. I urge all my colleagues to join in cosponsoring House Concurrent Resolution 120.

Also, as you know, Mr. Chairman, the case of an American citizen who suffered a loss of millions of dollars at the hands of the Haitian Government remains unresolved. Don Pierson, of Eastland, TX, has pursued his case for several years and I will help him continue to pursue it until the wrong done to him has been righted. Mr. Pierson was under contract to develop a freeport authority that would have brought much employment and commerce to an improverished nation, until the Government of Haiti unjustifiably canceled his contract and seized his property without anything approaching due process as we know it. I have appreciated the interest shown in Mr. Pierson's case by several members of the committee and have appreciated the interest and guidance offered by our colleague, Chairman BARNES, of the Western Hemisphere Subcommittee.

In view of the facts I have mentioned, I was prepared to bring an amendment to the floor to reduce aid to Haiti. I am not offering that amendment today for two reasons:

First, I want to acknowledge the efforts made by members of the Foreign Affairs Committee to limit and condition aid to Haiti in a way meant to maximize assistance actually reaching the people and to promote human rights. A number of our colleagues want to avoid the possibility of "throwing the baby out with the bath water" and I am willing to wait and to continue examining the efficacy of such an approach of offering only specially limited aid.

Second, I am hopeful that an administrative remedy can be pursued on behalf of Mr. Pierson one more time, this time with fruitful results. A new review of his case has been initiated, a review that I have been assured will be a thorough and objective one. In the past, I have very much doubted that the State Department asserted Mr. Pierson's rights and advocated his claim as strongly as it should for an American citizen. I am watchful and hopeful that this new review will produce a more just result.

Mr. FASCELL. Mr. Chairman, let me say for the gentleman in the well, that I certainly appreciate his persistence, and I know that his constituent does.

Having been in the same position myself with respect to a constituent that had that kind of problem, I know the difficulty.

I must say that the gentleman is acting in a very appropriate manner. I appreciate his statement very much

and the fact that he is not offering an amendment. I say that wholeheartedly, having been in the same position. I believe that you are doing everything that can possibly be done for the constituent that you represent, and I can assure that the Committee on Foreign Affairs is behind your effort. We will monitor the study of the State Department very carefully, and hope that some way can be found to resolve the problem.

Mr. STENHOLM. I thank the chairman for those comments; that is exactly what I hope to do.

Mr. BROOMFIELD. Mr. Chairman, I yield the balance of the time to the gentleman from Illinois [Mr. HYDE], a member of our committee.

The CHAIRMAN. The gentleman is recognized for 3 minutes.

Mr. HYDE. Mr. Chairman, as I often stated in recent months, Congress' irresistible penchant for micromanaging foreign policy is imperiling the security of this Nation. The legislation before us epitomizes what I mean.

For example, the authors of this legislation caricature arbitrarily cut the President's fiscal year 1986 request for security assistance by more than $549 million. But before anyone gets the idea that this was done in the name of austerity, I must point out to my colleagues that most of these reductions were offset by transferring these ersatz savings into the pet economic assistance accounts of the committee's grand designers of foreign policy.

I have nothing against economic assistance, but when you have a finite number of dollars, security assistance becomes of transcendent importance. Pouring primarily economic assistance into insecure societies may have some very short-term benefits, but as a useful solution to the long-term and nearly intractable problems of these nations, it is about as beneficial as providing a blind man a pair of glasses. Of what good, for instance, would economic aid be to El Salvador if we did not also provide an adequate security assistance umbrella?

The incongruities in this bill are mind boggling. It correctly authorizes generous amounts of money for Israel and Egypt in clear recognition of what these two nations represent to our national security. Yet, with respect to El Salvador, a struggling and besieged ally in desperate need of large doses of U.S. aid to sustain President Duarte's embryonic democratic revolution, this measure cuts the President's request by $54.5 million.

What kind of a signal is that to send a friend in need?

Equally perplexing and counterproductive is the decision of the committee's majority to recommend a net cut of $25 million for Pakistan, another friend in difficult circumstances, with nearly 4 million Afghan refugees who have fled the Soviet rape of their homeland.

The committee never forgets to pillory its favorite whipping boys. Consequently, Zaire, one of Israel's best friends in Africa, took its annual beating to the tune of $6.4 million.

Of course, legislation from this committee would not be complete without a plethora of idiosyncratic foreign policy promulgations. Some of them are even gratuitous as in the case of the Contras in Nicaragua. Even though the administration did not request any funds in this bill for these freedom fighters, you will find a provision prohibiting such aid.

Paradoxically, you will also discover assistance for the freedom fighters in Cambodia and Afghanistan. With convoluted sophistry, rationales were articulated during the committee's consideration of H.R. 1555, that justified supporting patriotic resistance forces on the other side of the world while rejecting the pleas of their counterparts in our own strategic backyard. I am sure that you will hear some of these clever Contra distinctions repeated here today, but as far as I am concerned, they are nothing more than a nuance without a nuance.

□ 1140

The CHAIRMAN. The time of the gentleman from Illinois [Mr. HYDE] has expired.

All time of the gentleman from Michigan [Mr. BROOMFIELD] has expired.

Mr. FASCELL. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding additional time to me.

For example, you will be told that the non-Communist resistance in Cambodia is fighting against a foreign invader—Vietnam. Well, suppose only Pol Pot and his Khmer Rouge were in control and practicing their genocide on the population. Would you then deny funds to the resistance? In Afghanistan, yes, they are suffering a Soviet invasion, but there is as yet no export of revolution across their borders, so the legal case for defending El Salvador is even stronger.

We are always prepared to fight World War II again—but in the modern world, conquest occurs by subversion and wars of liberation supported and controlled from without but occurring from within. We seem paralyzed in our efforts to deal with this—placing our trust in negotiations unsupported by force—as if the Communists will yield any power because we ask them to—or the Contadora countries ask them to.

This committee has placed its bet on the good will of Mr. Ortega—and where I come from, that's called a sucker bet. We should support freedom fighters wherever they are—or forfeit the claim to be leaders of the free world. If any slogan can be applied to the majority of this committee, it would be "don't seize the moment!"

In keeping with the committee's principle that the closer to home the more we micromanage, proponents of this bill also decided to infringe upon the President's constitutionally mandated foreign policy and war powers responsibilities. Specifically, they approved highly restrictive language regarding the deployment of U.S. Forces into or over El Salvador or Nicaragua. Now I don't envision the need for U.S. Forces in these areas, but why needlessly add a provision which would be construed as an invitation to the Sandinistas to engage in either military or paramilitary activities against their neighbors? This committee makes us enforcers of the Brezhnev doctrine but must we tell the world about it? It just does not make good sense to stipulate prohibitions which appear to preclude some uses of defensive military force, short of declared war. Even the constitutionally questionable War Powers Resolution does not go this far. The isolationism reflected in this legislation betrays an ignorance of modern history that can only extract a fearful price in the years to come.

Mr. Chairman, I could go on endlessly about my objections to this bill. In the interest of time, however, I will sum up by saying that unless it is significantly improved during the amending process I will be unable to support this legislation, since on balance it does more harm than good.

● Mr. BARNES. Mr. Chairman, I rise in strong support of H.R. 1555, the International Security and Development Act of 1985.

I would like to commend the gentleman from Florida, the chairman of the Foreign Affairs Committee, Mr. FASCELL, for having once again guided the committee through the consideration of the foreign aid bill. The fact that this bill is before us today is a tribute to the chairman's statesmanship. I would also like to commend the ranking minority member of the committee, Mr. BROOMFIELD, and the ranking minority member of the Subcommittee on Western Hemisphere Affairs, Mr. LAGOMARSINO, for their leadership and cooperation during the consideration of the bill.

The levels of assistance contained in the bill before us are extremely modest compared to the objectives that we seek to achieve. The bill authorizes the appropriation of slightly more than $13 billion for fiscal year 1986 and the same amount for fiscal year 1987, and a supplemental authorization of $1.75 million for fiscal year 1985. We achieved a cut of more than $191 million below the amount re-

quested by the President. The committee has acted very responsibly in responding to the severe budget constraints that we all recognize.

The savings were achieved by making necessary cuts mostly in military assistance programs, while protecting and sometimes increasing the levels of economic assistance. The members of the committee feel that while military aid programs are obviously important, economic aid programs contribute the most to U.S. interests by promoting development and stability. The economic aid increases went to programs that over the years have provided a significant return on our investment on human capital, such as the Peace Corps, the Inter-American Foundation, the African Development Foundation, and international organizations.

This bill also incorporates the provisions contained in H.R. 1340, the U.S. Scholarship Program for Developing Countries, which was introduced by the majority leader. It was an honor for me to support the leader's proposal, which provides for scholarships to disadvantaged students from developing countries.

The bill also provides for a higher level of assistance for population programs, and clarifies the intent of the Congress with respect to U.S. funding for population activities. As demonstrated to some extent by the tragedy in Ethiopia, we now know that population programs are crucial to the survival of millions of people and to the development and stability of countries in the Third World. Our programs seek to guarantee that couples will have access to education and population programs that will help them achieve a desired family size.

Mr. Chairman, as chairman of the Subcommittee on Western Hemisphere Affairs I would like to explain some of the provisions in the bill that pertain to that region. Recognizing that Central America has been one of the most controversial issues discussed in the Congress, the subcommittee and the committee worked very hard to formulate recommendations that we felt would be acceptable to the majority of the Members of the House. We now bring this bill to the floor confident that the end product of our efforts merits the support of this Chamber.

During the last year the committee has followed with much interest the efforts of Salvadoran President Jose Napoleon Duarte to negotiate with the guerrillas and to seek an end to human rights violations by military and security forces. In cooperation with the ranking minority member of the subcommittee, Mr. LAGOMARSINO, the committee adopted a semiannual reporting requirement in order to support the democratic government of President Duarte. The report, which would be required as a condition of disbursing military aid, would deal with: First, the Salvadoran Government's willingness to pursue a dialog with the opposition; second, the Government's control of the military and security forces; third, progress in ending the activities of the death squads; fourth, progress in establishing an effective judicial system; and fifth, progress in implementing the Land Reform Program. These are all areas that the administration and the Salvadoran Government have also identified as crucial to peace and development in El Salvador. Although the language requires that military assistance be disbursed in tranches, we accommodated the concerns of the ranking minority member by allowing for a waiver in case of an emergency. The bill also provides for the termination of all military assistance if the elected President is deposed by military coup or decree. In response to concerns about the indiscriminate bombing of civilians, the bill also provides for a report to Congress whenever new helicopters and aircraft are provided to El Salvador.

Although many of us were encouraged by the elections in Guatemala last year, we are still concerned that in recent months there has been an escalation in the number of disappearances and murders of civilians. In order to express congressional support for the transition to democracy, the bill contains a prohibition on military assistance to Guatemala until there is an elected civilian government in power which has requested such aid. The aid will be of a nonlethal nature.

The legislation continues the provisions currently in the law with respect to Haiti. It also prohibits the use of the Foreign Assistance Act funds for military or paramilitary operations in Nicaragua. The bill provides for limitations on the introduction of armed forces into El Salvador and Nicaragua for combat, which is similar to the Foley amendment adopted by the House last year, and requires a Presidential notification to the Congress on U.S. military exercises in Central America, which is similar to a provision contained in last year's Broomfield amendment.

This legislation also calls for the establishment of a Central American Development Organization, which was recommended by the Kissinger Commission, and an International Advisory Commission for the Caribbean region.

I know how difficult it is for some of my colleagues to support foreign assistance, but I would encourage them to look very closely at this modest proposal we have before us and to think what a small price, what a small investment this program is for promoting a stable and democratic world where U.S. interests are protected. I encourage my colleagues to support H.R. 1555, the International Security and Development Cooperation Act of 1985.●

● Mr. RUDD. Mr. Chairman, this week and next, we will be considering H.R. 1555, the Foreign Assistance Act authorization for fiscal year 1986.

With this legislation, we not only have a chance to correct mistakes in our past foreign policy, but also an opportunity to shake up the State Department, which administers foreign aid programs, and force it away from the line of appeasement it has been following.

In time after time, I have witnessed State Department bureaucrats and careerists practice a policy of appeasement to our enemies rather than firmness in following a policy consistent with what is right and in America's best interests.

International incidents in countries like Hungary, Poland, Czechoslovakia, and Afghanistan have shown the State Department, as well as the Congress, unwilling to take a tough line toward the enemies of freedom abroad. A State Department policy of appeasement in Cuba helped Castro to power. Inaction in Chile helped a Marxist government to rule that nation.

In the course of following these policies of appeasement and inaction, and adopting a conciliatory approach toward actions and foreign aggressors which damage U.S. interests, the State Department has spent millions and billions of taxpayers' dollars.

Internally, the State Department is a bureaucratic snarl in which U.S. foreign policy is batted about by competing factions, watered down through compromise, indecisiveness or inaction, and emasculated by bureaucrats unable or unwilling to make decisions, exhibit leadership, or take responsibility for our foreign policy.

These are my observations of the sort of operation we are currently funding at that agency. But they are similar to opinions shared by many Americans.

Mr. Chairman, current State Department counselor Edward Derwinski, a former colleague of ours who served 24 years in Congress, recently said, and I quote, "What we need is somebody to shake up the whole damned structure."

We made some progress in this direction when we considered the State Department authorization bill last week. We have some more opportunity to shake up the Department and help correct its policymaking structure in the foreign aid bill before us today.

The bill, as reported by the committee, however, is fatally flawed. In Central America, it adopts the State Department's conciliatory approach, doing more to appease the Soviets and their surrogates in Cuba and Nicaragua than to help our friends in the

region who are struggling to establish strong democracies.

The bill includes numerous conditions on military aid to El Salvador despite the fact that the Salvadoran Government was freely elected, has demonstrated time and again its commitment to improving human rights and is a firm ally of the United States. The requirements go so far as to call on the freely elected Duarte government to enter into dialog with armed opposition forces. With this language, we send the signal that the Marxist/Leninist guerrillas in El Salvador can shoot their way into power.

While we set rigid conditions on aid to our friends, we give virtually free reign for the Sandinistas to spread communism throughout Latin America by prohibiting use of any funds for the Contras. After the House voted 3 weeks ago against aiding the Contras, Commandante Ortega the next day embarked on a victory pilgramage to Moscow with a request for some $200 million in aid.

The people throughout Latin America look to the United States for help in fighting Communist aggression. They know that if they do not get the assistance they need, the terror that exists in Nicaragua will spread to their homelands.

This House made a tragic mistake when it voted last month against aiding the Contras. If that vote is sustained and we do not provide immediate help to the freedom fighters, we cannot be serious about supporting those fighting in defense of liberty and freedom anywhere.

We have before us a $13 billion foreign aid bill. We provide aid to dozens of countries throughout the world, but we seem unwilling or unable to recognize the most serious threat to our security in Central America and provide even modest help to those fighting for democracy there.

We must end the mistaken policy of criticizing our friends at each opportunity and accommodating our enemies—before it's too late.●

● Mrs. LLOYD. Mr. Chairman, I must oppose the foreign assistance authorization. Many issues have been and will be raised during the debate on this bill which our Nation must eventually address. The most important of these is whether this Nation has the ability to provide massive amounts of financial assistance to foreign nations during these very difficult economic times. Since first coming to the Congress I have opposed the continuation of these foreign aid programs, because I could not support the giveaway of billions of dollars to other nations while we faced severe economic problems at home.

So long as there is a desperate need in this Nation—elderly who must choose between food and shelter, workers unable to support their families, young people without work—I cannot support this massive expenditure of our tax dollars on foreign aid. Can we take dollars from programs that are essential to millions of Americans in order to send them to governments who are hostile to our philosophies and consistently oppose our Government. With this critical shortage of funds, we must put America first.

I deeply regret that in opposing this bill I must vote against aid to Israel, a nation which has suffered greatly in its own defense. Israel is in the throes of its most serious economic crisis since its establishment as a nation. The United States must play an important role during Israel's troubled economic times. I commend the committee for its level of funding to Israel and to Egypt, its leading partner in the peace effort. And I support the restriction on FMS financing for weapons to Jordan.

Israel simply cannot resolve its economic problems by itself without making such draconian cuts as to jeopardize the very security of the state. A clear statement by the U.S. Government of its willingness to increase its assistance would greatly facilitate the difficult decisions that lie before the Israeli Government. The provision of additional aid is very much in our mutual interests. A strong Israel, both economically and militarily, is vital and the United States should generously support Israel as it undergoes this difficult period.●

● Mr. SHUMWAY. Mr. Chairman, I rise today in opposition to H.R. 1555, the foreign aid authorization for fiscal years 1986 and 1987. In considering this legislation today, I believe that we must ask, can the U.S. Congress really justify the expediture of over $13 billion for foreign aid programs in a year in which projected Federal deficits exceed $200 billion, a year in which we must ask Americans to make significant sacrifices in order to cut the Federal budget and bring the growing deficits under control? Although I recognize the useful role that foreign aid can play in supporting our friends and allies around the world, I believe that it is only right that we apply even greater scrutiny to our foreign aid spending than we apply to our domestic spending needs. Instead, however, while we consider such proposals as reductions in student aid, modifications to Social Security, and the elimination of funding for Amtrak, we are faced with a foreign aid authorization which represents a 5.6-percent nominal increase over the appropriation for fiscal year 1985 and a 64-percent increase over spending in fiscal year 1981.

Mr. Chairman, I find this relentless growth of our foreign aid spending in recent years very troubling. Rather than focusing U.S. aid on the specific needs or problems of friendly nations, we have come to treat our foreign assistance allocations as an entitlement program: Once an assistance program is begun, its continuation, and in fact, its expansion, seems to be presumed regardless of whether the original objectives of the program are being met. We must recognize the aimless impetus that our foreign assistance programs have assumed and reevaluate the multiplicity of goals that they serve.

Mr. Chairman, in my view, by reducing our spending and working to reduce our national deficit, we can better serve many of those countries which are the beneficiaries of U.S. foreign aid. As long as our deficit remains high, so will interest rates, thus placing a significant burden on nations trying to repay foreign assistance loans from the past. Clearly, deficit reduction must be our foremost priority and foreign aid must be subject to our national economic constraints.

In opposing the trend of foreign assistance generally and H.R. 1555 in particular, I am not advocating U.S. isolationism or the elimination of assistance programs altogether as a tool of U.S. foreign policy. I firmly believe that we have obligations throughout the world that can be served through foreign assistance, whether the need is feeding the starving people of Ethiopia or promoting the struggle of democracy against totalitarianism in Central America, both causes which I strongly support. I believe, however, that U.S. aid allocations should realistically reflect our available resources and should, in general, reward those nations which support our foreign policy objectives, not those who actively oppose them. Mr. Chairman, why should we continue to channel the dollars of American taxpayers to those who use them to counter American interests in the international arena? Why should we provide, as the legislation before us proposes, $30 million in aid in fiscal year 1986, including military assistance, to the avowed Marxist regime of Mozambique? In my view, proposals such as this clearly demonstrate the unnecessary and even detrimental spending that Congress would accept by passage of H.R. 1555.

I believe as well that elements of this legislation represent an inappropriate intrusion by the House into the foreign policymaking responsibilities of the executive branch. It is the executive branch which possesses the constitutional authority and the resources—represented by the Department of State and its Foreign Service, the intelligence agencies, and the Department of Defense—to develop a fully informed foreign policy. I am opposed, Mr. Chairman, to attempts by this body to impose limitations on the President's foreign policymaking role, attempts reflected in a variety of the

provisions contained in H.R. 1555 such as those creating conditions on assistance to Central America and to Jordan. While Congress must be responsible for determining the levels of spending we can sustain for foreign aid, I believe that the President must retain flexibility in determining the priorities for the use of that aid and in pursuing diplomatic initiatives, flexibility which is impaired by the policy requirements inserted in the foreign aid authorization before us.

In conclusion, Mr. Chairman, while I recognize that H.R. 1555 does contain some requests for U.S. assistance which are legitimate and in the national interest, I must oppose this legislation based on the objections outlined above. I believe a reconsideration of our approach to foreign assistance is long overdue; until the level of foreign aid spending is drastically reduced to a level consistent with the economic stringency of our time and until a formula is established that effectively rewards our friends and allies, not our enemies, I will continue to oppose funding authorizations for foreign assistance and urge my colleagues to do the same.●

● Mr. FAUNTROY. Mr. Chairman, I rise in support of H.R. 1555, the International Security and Development Cooperation Act of 1985. As in the debate last year over H.R. 5119, the International Security and Development Act of 1984, I do so with reservations. While supporting H.R. 1555, I have a great deal of difficulty with the continued overemphasis on military assistance as opposed to humanitarian and development assistance. The balance in H.R. 1555 between military/security assistance and development and humanitarian assistance, while an improvement in comparison to the administration's request, still contains too much military assistance. Military assistance cannot address the political, economic, and social variables which underlie the drought, malnutrition, lack of health care, and educational opportunity, and plain injustice which torment most of the world and threaten the peace.

I recognize that our military assistance to Israel and Egypt contained in this bill, which would otherwise be but a small item in our overall bloated defense expenditure, is necessarily inserted here in order that this foreign assistance bill gain passage. The real tragedy is that our Nation is yet unwilling to devote more than a token amount to actual development assistance.

This legislation, however, does contain a number of positive features, particularly as it seeks to address human rights and economic development in many areas of the world. It is because of these features and my belief that it is in our national interest to pass a foreign assistance bill that I have decided to support H.R. 1555. This bill provides at least some policy framework for our assistance programs. I want to congratulate the distinguished chairman of the Committee on Foreign Affairs for his leadership and skill in structuring H.R. 1555 which represents "the art of the possible."

As chairman of the Congressional Black Caucus Task Force on Haitian Refugees, I am especially appreciative of the human rights conditionality contained in title VII, section 706, promoting the development of the Haitian people and providing for orderly emigration from Haiti. In this section the Committee on Foreign Affairs expresses its continuing concern over the unsatisfactory human rights situation in Haiti. Specifically, section 706(b)(3) stipulates that assistance may be obligated for Haiti only if the President determines that the Government of Haiti "is making progress toward implementing political reforms which are essential to the development of democracy in Haiti, such as progress toward the establishment of political parties, free elections, free labor unions, and freedom of the press." Section 706 also "provides that to the maximum extent practicable development assistance and economic support fund assistance for Haiti should be provided through private and voluntary organizations."

Having visited Haiti just last month, I can report that section 706 is necessary and helpful to United States foreign policy goals in Haiti. I spent most of my time in the rural areas and was greatly impressed by the resilience, strength, and determination of the small farmers in rural Haiti to help themselves. I saw numerous projects underway on the part of private voluntary agencies, many of them church groups funded by our foreign assistance. I was particularly impressed by the work being done by Catholic organizations, such as IDEA, a grantee of the Inter-American Foundation, which was recently singled out by the Haitian Government for intimidation. Especially encouraging was the improvement in the programs of the Agency for International Development in reaching the poor through indigenous groups. There has been progress made in the past few years, and I can report that with respect to the various reforestation programs, soil conservation programs, and the pig repopulation effort the U.S. taxpayers' money is being well spent. I had earlier requested a General Accounting Office study on our assistance programs to Haiti. I can report, after reviewing the draft copy, that agency's agreement with my assessment after its own extensive and comprehensive onsite investigation.

The AID mission in Haiti is gearing up to assist the Haitian people in addressing the nightmare of an 80-percent illiteracy rate. In a supportive provision section 706 earmarks $1 million of economic support funds for each fiscal year 1986 and 1987 for literacy programs in Haiti. It is my hope that these funds can be provided to the private educational sector in Haiti in support of educational reform in that sector which presently educates two-thirds of all of those in school in Haiti. The goal of this program should be to support basic education in Haiti with the objective of achieving literacy by the end of the fourth grade. I have been informed by the committee that the language in section 706 would permit the allocation of the earmarked economic support funds to a program such as that mentioned above.

The Haitian people are prodevelopment; they want to improve their lives and those of their children. If given the resources and the freedom to participate in the decisionmaking process of their country, they will develop it. I urge my colleagues to support development assistance to the Haitian people as provided for in section 706 channeling assistance to the maximum extent possible through private and voluntary organizations. The best chance for assuring that assistance reaches the Haitian poor is, in most instances, through private voluntary organizations.

It must also be reported that the whole area of human rights and political freedom suffers from a lack of sustained progress. During my visit, I went to the national penitentiary to meet with political prisoners arrested during a security sweep last November. I was deeply concerned that some of the prisoners with whom I visited at the prison in December 1982 and who had been there since 1979 had still not been charged. I was equally disturbed that those arrested in November 1984 had not been given a trial date, allowed access to legal counsel, or been permitted visits from family members. Most disturbing of all were the continued reports and physical evidence of prisoner abuse at the Cassernes Dessalines prior to transfer to the national penitentiary. Now, I am able to report the encouraging news that these political prisoners, numbering 37 in all, were released on April 29, 1985.

While I was in Haiti, there was a good deal of expectancy among people concerning an announcement by President Jean Claude Duvalier. This announcement made on April 22, 1985, dealt with the establishment of political parties and the creation of an office of Prime Minister. The announcement was vague; the Haitian people have still not been provided with rules for functioning of political parties, and the presidency-for-life is to be maintained. The Prime Minister is to be selected at some future date by

the President from the most popular party as determined in elections for the National Assembly. Whether or not this announcement offers any real possibility for the public policy dialog, accountability, and progress toward democracy and pluralism, which the people of Haiti need and want, will ultimately be determined by the people of Haiti in the coming days.

We in the Congress and our colleagues in the executive branch have an obligation to monitor this process closely as it will impact greatly on our objectives of assisting Haiti toward progress in democratization, promotion of human rights, and development with justice. If it leads to greater participation and accountability, then development prospects will be enhanced and we can revitalize our efforts to assist the great Haitian nation. If it does not succeed, and proves to be an attempt to cosmetically address our concerns while continuing or even increasing repression and the misallocation of resources, then decertification under section 706 should be considered by the executive branch. In the unhappy circumstances where that might be necessary, food assistance under Public Law 480 and all assistance channeled through private and voluntary organizations could be continued. I would hope, however, that in 6 months we could receive a report from the Department of State that can credibly speak of progress toward human rights, democracy, and pluralism. We are at a crucial crossroad in our policy toward Haiti—one that requires increased attention from both the Executive and the Congress.

There are other sections in title VII, "Latin America and the Caribbean," that warrant strong support. Section 718 requests the President of the United States to establish an International Advisory Commission for the Caribbean to end our all too neglectful and patronizing treatment of this vital region. The establishment of such a Commission championed by the Chairman of the Congressional Black Caucus Task Force on the Caribbean, Congressman MERVYN DYMALLY, is long overdue and will help our Nation better address the social, agricultural, educational, and economic problems of the Caribbean.

Section 709 authorizes funding for the Inter-American Foundation and seeks to protect this most valuable institution from politicization, protecting the professionalism of its staff. Having visited with IAF grantees in Haiti, I do not exaggerate in saying that its programs in that country are a model of excellence in working with the poor for self-reliant development and the reduction of dependency.

Section 704 prohibits the use of any funds authorized under H.R. 1555 to military or paramilitary operations in Nicaragua.

Section 707 prohibits the use of military assistance for Paraguay unless the President certifies to the Congress that the Government of Paraguay has taken various steps to locate Dr. Joseph Mengele and to correct human rights abuses, specifically torture.

With reference to Africa, the continent with the greatest need for development assistance, title VIII, section 808 authorizes $94.5 million for fiscal year 1986 and the same for fiscal year 1987 for the Sahel Development Program.

Section 809 authorizes $4 million in each of the fiscal year 1986 and 1987 for the fledgling African Development Foundation.

As stated earlier, our total of about $1 billion in development for Africa, particularly sub-Sahara Africa, is woefully inadequate in light of the need. While the American people have been extremely responsive to the need for emergency food assistance, there is an acute need for long-term development assistance. This assistance must be focused on agriculture at levels capable of supporting policy reform and sustained increases in production. There are additional needs in sanitation and health care. As inadequate as are the funding levels under this act for sub-Sahara Africa, I think it imperative that we support the efforts of the Multilateral Development Banks to address the development needs of Africa. With that in mind, I would urge my colleagues to support H.R. 1949, the Multilateral Development Act of 1985, which contains within it a provision to authorize United States. participation in the Special Facility of the World Bank for sub-Sahara Africa. This is most important, as United States participation can leverage increased funding for Africa by encouraging the participation of other donor countries. Additionally, H.R. 1949 contains a provision that would authorize United States participation in the fourth replenishment of the Africa Development Fund, the soft loan window of the African Development Bank designed to assist the poorest of African countries. This legislation was affirmatively considered in the Committee on Banking, Finance and Urban Affairs.

As a member of the Select Committee on Narcotics Abuse and Control, I am encouraged by title V of H.R. 1555. It authorizes policies and funds designed to enhance our control of the international trade in narcotics, and signals a new toughness in our battle with the No. 1 security problem in our neighborhoods. For example, section 504 provides exemption from the ban on involvement by U.S. personnel in arrest actions in narcotics control efforts abroad.

Sections 509-511 set conditionality on assistance to countries known to produce crops used in the preparation of narcotics. Conditionality in providing foreign assistance is linked to cooperation of specific countries cited in reducing their cultivation of crops used in the preparation and processing of narcotics.

Other worthy provisions of H.R. 1555 which deserve support are to be found in title VI and title X. Title VI would establish an Undergraduate Scholarship Program for students of limited financial means from developing countries for the purpose of pursuing a course of study at U.S. institutions of higher learning. Congressman MERVYN M. DYMALLY will be introducing an amendment to title VI specifying the inclusion of students from the Caribbean in this program. I urge my colleagues to support this amendment. Title X would provide increased appropriations for the Peace Corps in fiscal years 1986 and 1987. The level of authorization would be set at $136.1 million for each of these fiscal years—an increase of $7.5 million per year over the 1985 appropriation. In providing this increase, the Committee on Foreign Affairs has expressed the position that this increase should be used to support the Peace Corps' African Food Systems Initiative. The committee has also urged the Peace Corps to review its Caribbean programs for the purpose of considering the expansion of its operations in that critical region.

In conclusion and on balance, this legislation imposes a necessary, if imperfect framework for the carrying out of our Foreign Assistance Program and clarifies congressional priorities and areas of concern. Our foreign policy requires such a framework, and I urge my colleagues to support H.R. 1555.●

● Mr. RANGEL. Mr. Chairman, I rise in support of title V, the international narcotics control section of the International Security and Development Cooperation Act of 1985 recently reported out by the Committee on Foreign Affairs of the House of Representatives. Title V of the bill addresses the shortcomings of our international narcotics control programs overseas. It contains the foreign-assistance-related provisions, as amended, of H.R. 1768, the "International Narcotics Control Act of 1985," introduced by Chairman FASCELL in March of this year.

The major provisions in title V include conditions on United States foreign assistance to Peru, Bolivia, and Jamaica tied to their antinarcotics efforts, an earmark of military assistance funds for U.S. weapons to be installed on antinarcotics aircraft of friendly countries, permission for U.S. agents to be present at overseas narcotics arrest actions and encouraging our military to increase its involvement in antinarcotic measures overseas. These initiatives represent an effort by the Foreign Affairs Commit-

tee and this Congress to demonstrate our frustrations and our resolve regarding the lack of progress in reducing the amounts of illicit drugs being cultivated or processed by narcotics-producing countries which receive foreign aid from the United States.

Indeed, Mr. Chairman, since the first of this year four major reports have been issued by various groups whose mandate it is to monitor international drug trafficking. The U.N. International Narcotics Control Board, the State Department, the Select Committee on Narcotics Abuse and Control which I chair, as well as the Committee on Foreign Affairs have all reported expandedinternational production and trafficking of illicit drugs.

Mr. Chairman, the situation regarding illicit narcotics abuse appears to be worsening. We must, this year, brace ourselves against the tide of what was 1984's bumper crop worldwide of opium, coca, and marijuana. We must live with the all too vivid memory of our slain DEA agent and guard against the real threat that those who seek to profit from drugs pose as they get more brazen and more contemptuous of the law.

International drug traffickers have declared war on the United States. Our administration's response to their aggression, a policy mired in equivocation, stuck in diplomatic muck. Yet who suffers while the country waits for the kind of firm action to be taken that brought a halt to the illicit production of opium in Turkey and Mexico in the 1970's? All of us do, and especially our young people.

These drugs are produced by friends overseas. Friends whose governments we support and to whom we provide assistance. To be exact $57,529,000 for fiscal year 1986 will go to these countries to be applied to their antinarcotics efforts. Yet more illicit narcotics than ever before reach our shores.

Mr. Chairman, I support title V of the foreign aid bill and I commend its authors. Yet I do not believe that in its present form it goes far enough in addressing the concerns I have here outlined and that I am sure we all share. We are past the point of merely criticizing the countries of the world who receive U.S. assistance and then fail to uproot a single coca bush or who put their eradication programs on hold indefinitely. The death and destruction that these drugs bring to this country and around the world take no such hiatus.

I will thus, in the weeks to come offer amendments to title V in order to shore up the weaknesses which I perceive in this legislation. A stronger, firmer, foreign aid package ensures that those receiving our assistance know that a cavalier approach to narcotics control does not sit well with the American Congress and the American people. We have a chance here to send this message. It is a message that has not been forthcoming from the administration. Let us in Congress then seize the initiative and tell our friends around the world in the surest possible way that the unhindered, out of control production of narcotics within their borders is not sufficient consideration for the receipt of our aid.●

Mr. FASCELL. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Mr. FASCELL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. KANJORSKI] having assumed the chair, Mr. AUCOIN, Chairman of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1555) to amend the Foreign Assistance Act of 1961, the Arms Export Control Act, and the Agricultural Trade Development and Assistance Act of 1954, to authorize development and security assistance programs for fiscal year 1986, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked to proceed for the purpose of inquiring of the acting majority leader the program for next week.

Mr. COELHO. Mr. Speaker, if the gentleman will yield, the program for next week is as follows:

The House will meet at noon on Monday and will consider 11 bills on the Suspension Calendar. Recorded votes on suspensions will be postponed until Tuesday.

The 11 bills are as follows:

H.R. 1534, permanent authority for flexible and compressed work schedules;

H.R. 2343, to make certain improvements in veterans compensation programs;

H.R. 2344, to make certain improvements in the VA program that provides assistance to certain disabled veterans;

H.R. 1408, to amend the Emergency Veterans Job Training Act of 1983;

H.R. 505, to improve the delivery of Health Care Services by the VA;

House Joint Resolution 192, National Day of Remembrance to Mans Inhumanity to Man;

H.R. 2456, to amend the Arms Control and Disarmament Act in order to increase the authorization of appropriations for the fiscal year 1985, to extend the authorization of appropriations for the fiscal years 1986 and 87, and for other purposes;

House Resolution 166, expressing the sense of the House re ratification of the Convention of Crime and Genocide, as amended;

House Concurrent Resolution 142, welcoming the Prime Minister of India, Rajiv Gandhi, on the occasion of his official visit to the United States;

H.R. 1997, amending Libraries Services and Construction Act; and

H.R. 2745, amend Internal Revenue Code to simplify imputed interest rules.

On Tuesday, the House will meet at noon and will consider the Private Calendar. Following any postponed recorded votes on suspensions debated on Monday, the House will consider H.R. 1460, the Anti-Apartheid Act of 1985, subject to a rule being granted.

On Wednesday and the balance of the week the House will meet at 10 a.m. and will consider the budget resolution for fiscal year 1986.

Mr. MICHEL. If I might inquire, those votes on suspensions on Tuesday would be up first, before consideration of the Anti-Apartheid Act; is that correct?

Mr. COELHO. That is correct.

Mr. MICHEL. Does the gentleman have any idea, on the Anti-Apartheid Act, how many amendments were made under the rule? Did they conclude, informally, the act?

Mr. COELHO. If the gentleman will yield, we do not know exactly how many amendments, but we understand it will take about 6 hours.

Mr. MICHEL. And would that suggest that we would attempt, then, to finish that legislation, no matter how late on Tuesday?

Mr. COELHO. Our intentions at this point are to complete the bill on Tuesday.

Mr. MICHEL. And then we would have the rule on the budget resolution the first thing on Wednesday, I assume.

Mr. COELHO. If the gentleman will yield, that is correct. And as the gentleman knows, under the rules, the budget gets 10 hours of general debate, so we would complete the general debate on Wednesday for the budget resolution.

Mr. MICHEL. And then depending upon the number of amendments

made in order, we would be under the amending process on Thursday on the budget resolution?

Mr. COELHO. If the gentleman will yield, our intent is to vote on Thursday on the budget amendments and to hopefully conclude on Thursday, if we can get through at a reasonable hour. But our intentions are to complete it on Thursday.

□ 1150

Mr. MICHEL. Of course, that is prior to our Memorial Day normal recess period where Members are obliged to make Memorial Day speeches and appearances, usually back home. So, I would imagine the getaway time is, hopefully, to be as early as possible on Thursday to facilitate Members departing town.

Is that correct?

Mr. COELHO. If the gentleman will yield, that is our intent. Of course, depending, as the gentleman knows, on the number of amendments and discussion; but that is our intent.

Mr. MICHEL. Just one more clarification. It would not be the intention on the majority side to go beyond general debate on the budget resolution on Wednesday; we would not get to the amending stage under any circumstances Wednesday; would we or would we not?

Mr. COELHO. If the gentleman will yield, our intent at this point is to only do general debate because it is 10 hours, and then on Thursday, start with the amendments that have been made in order.

Mr. MICHEL. Mr. Speaker, I thank the gentleman and I yield back the balance of my time.

ADJOURNMENT TO MONDAY, MAY 20, 1985

Mr. COELHO. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. COELHO. Mr. Speaker, I ask unanimous consent that business in order under the calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request made by the gentleman from California?

There was no objection.

CENTRAL AMERICA: A DOSE OF REALITY

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute.)

Mr. GONZALEZ. Mr. Speaker, whenever a government sets on a vague course of action, it takes no great skill to see that lack of direction leads to misdirection, and misdirection leads to disaster.

In Nicaragua, the Central Intelligence Agency was given a vague mission. Congress thought that the Intelligence Agency was supposed to build up a force to interdict arms supplies that supposedly were going from Nicaragua to El Salvador. The CIA, however, apparently thought that its mission was to try and overthrow the Nicaraguan Government. President Reagan thinks that the job is to make the Sandinistas cry uncle.

Sure enough, it was not long before uncontrolled actions grew up in the midst of the policy vacuum. The CIA built a much larger force than Congress had envisioned, and that force began acting far beyond the scope of anything that Congress had authorized, and indeed far beyond the specific limits set out in the Boland amendments. The lack of direction clearly permitted the CIA to drift out of control, with results that strengthened the Sandinistas, weakened legitimate opposition to the regime, and further tarnished whatever good name our country had remaining in Nicaragua.

In this week's news, we see further confirmation of how a vague policy, carried out by proxies, can do more harm than good.

President Reagan on April 3, last year, signed papers to authorize the CIA to carry out counterterrorist actions, both of a preemptive and retaliatory nature. Sure enough, the action soon came down to seeking revenge in that revenge-ridden holocaust that is called Lebanon. And what happened?

We supported operations that we did not control, but for which our Government would be—and has been—held responsible. The CIA worked with Lebanese intelligence, which in turn worked through proxies of their own, who in turn had their own private agenda. These proxies in the third or fourth degree succeeded in killing 80 people in a car bombing, but missed their target. It was a senseless, indefensible slaughter. It killed dozens of innocent people, and probably ended up doing more to promote than to suppress terrorism.

When are we going to learn? When are we going to learn that wishful thinking is no substitute for clear policy direction? When are going to learn that violent, clandestine activity has to be controlled in the closest possible way; that you cannot substitute blood for brains, and that it is not possible to do through thugs that which must be done through thought?

It was not James Bond manning the speed boats that mined the harbors in Managua, and in the process undermined the Sandinista opposition. It was not the heroes of "Mission Impossible" who set out to terrorize the Nicaraguan countryside. It wasn't even the Keystone Cops, No, this is the real world, and in that real world, we have seen repeatedly that working through proxies, through violence, and through undefined policy, we have not harmed our enemies and opponents so much as strengthened them and harmed ourselves.

TO PROVIDE MEDICARE COVERAGE FOR THERAPEUTIC FOOTWEAR NECESSITATED BY CONDITIONS RESULTING FROM DIABETES

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, I rise today, Mr. Speaker, to introduce a bill which would provide Medicare coverage of costs for therapeutic shoes for diabetic individuals who suffer from severe diabetes-related foot disease.

There are approximately 5½ million diabetics in the United States. It is estimated that about 2.1 million are 65 and over and Medicare eligible.

Mr. Speaker, many people are unaware that diabetics often suffer from peripheral neuropathy or loss of feeling or sensation. This leads to repeated injury or trauma to the extremities resulting in ulceration and infections.

Diabetics also suffer from peripheral vascular disease. This disease causes the blood supply to the lower extremeties to be severely diminished. With the diminished blood supply, healing of ulcers and infections is impaired, even prevented. The result is that gangrene will occur and amputation is necessitated.

Mr. Speaker, amputations are much more common among diabetics than the general population. It is estimated that each year 40,000 diabetics are required to have a lower extremity amputation. Of these, anywhere from 10,000 to 16,000 are age 65 or over.

Amputation could be prevented, however, in as many as 50 to 75 percent of affected individuals if proper foot care were available. Proper foot care involves patient education and, where foot disease is only mild, the use of extra-depth shoes and plastizote inserts. For patients with severe diabetic foot disease, specifically designed therapeutic shoes are necessary. It is these specially designed shoes that I, along with the American Diabetes As-

sociation, am proposing be made part of the Medicare Program.

It is estimated that at least 5 percent of diabetics suffer some form of severe diabetic foot disease, including foot deformity and ulceration. These individuals are at a great risk for amputations.

An amputation, Mr. Speaker, can cost Medicare anywhere from $10,000 to $16,000 per patient. If these high risk individuals had properly fitting therapeutic shoes, at least 40 percent of these amputations could be prevented.

The average cost of a pair of specially fitted therapeutic shoes is approximately $350. That seemingly high cost is a significant barrier to their acquisition by Medicare beneficiaries who generally must live on fixed incomes. If Medicare were to pay 80 percent of the cost of these shoes for diabetes-related beneficiaries needing them, that would be about $280 per pair per year. If, then, the 105,000 Medicare beneficiaries—5 percent of 2.1 million—qualified for shoes, the potential cost to the Medicare system would be approximately $30 million.

Mr. Speaker, the cost of providing these shoes would be offset against the savings created by amputations prevented. Even if the availability of shoes lowered the amputation rate by only 40 percent, savings are predicted to be at least $30 million or more. This figure does not even reflect the other costs associated with diabetic foot disease—hospitalization for surgery on lesions, debridgement of ulcers, et cetera—which could also be prevented. Nor does it reflect the added costs incurred by the Social Security system associated with permanent disability due to amputation.

In order to ensure that this benefit is properly utilized, the bill also provides that anyone who receives therapeutic shoes be certified by a physician as being involved in a comprehensive plan of care for all aspects of their disease. Thus, the bill protects against possible abuse or misuse.

Mr. Speaker, the bill I introduce today was developed in consultation with the American Diabetes Association and provides Congress with the opportunity to improve the quality of life for diabetics while reducing costs incurred by the Medicare system.

ABUSES OF SPECIAL ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, there has been some debate around the House for a period of time as to whether or not Members ought to come to the floor and actually participate in debate, and actually talk about subjects out here on the floor during special order time.

In fact, we have had the majority, on several occasions, question whether or not the minority should in fact utilize this time. The reason why the minority often utilizes the time is because these special orders are one of the few periods during the legislative day when the minority can get time to discuss the issues that it wants to discuss here on the House floor.

Other than that, the legislative schedule is controlled by the majority and only those issues that the majority designs for the House to discuss are the issues before us. We think it is important from time to time to define for the American people issues as seen from the perspective of the minority party, which got nearly half the votes in the last election for Congress. So, it is important I think that we have the debate on the House floor which is in fact oriented sometimes from the minority side as well.

Mr. WHEAT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri [Mr. WHEAT].

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1460, ANTI-APARTHEID ACT OF 1985

Mr. WHEAT, from the Committee on Rules, submitted a privileged report (Rept. No. 99-131) on the resolution (H. Res. 174) providing for the consideration of the bill (H.R. 1460) to express the opposition of the United States to the system of apartheid in South Africa, and for other purposes, which was referred to the House Calendar and ordered to be printed.

Mr. WALKER. I thank the gentleman. The gentleman was most kind in the Rules Committee at helping us achieve a rule that the minority will be able to offer a substitute under, and I thank the gentleman for that.

Mr. Speaker, to go back to the issue on the special order, what we have seen happening, however, is the majority, from time to time, has decided that special orders, because they are coming from the minority viewpoint, are therefore not conducive to their legislative process and have raised objections to them.

Among the objections they have raised from time to time is that when minority Members are on the floor taking special order time, that we are costing the taxpayers money. Now, that never seems to be an issue when majority Members are taking the time. In fact, a review of special order time during this Congress will reveal that there are majority Members who have taken far more time in special orders than any Member of the minority has.

The majority party, and particularly through the Democratic Congressional Committee, has in fact issued press releases into Members' districts accusing them of wasting taxpayers' money by coming to the floor to debate.

Let me make the point that, indeed, there are some costs that are associated with being on the floor debating issues. I think the healthiest part of the legislative process is Members who are willing to come here to the floor and allow their viewpoints to be challenged. As I stand here today talking, if there is somebody that wants to take exception to what I am saying, they are perfectly able to come to the floor, I will be glad to yield to them and we will debate the issue.

That is somewhat different, I would say, than the issues that arise by people taking material that they have preprinted and stick it in the CONGRESSIONAL RECORD. That also costs the taxpayers. As a matter of fact, in discussions with the Clerk, I have found out that that is where most of the expense comes from, whether it is talking on the House floor or whether or not it is inserting material in the RECORD.

The real question of cost to the taxpayers is how much it costs to print the RECORD, and that insertions are in fact the expensive part of what we do here in the House.

I would say that those people who do not allow their viewpoints to be challenged by simply sticking stuff into the RECORD are in fact the ones who are abusing the legislative process. What they end up with is something which is printed, which appears to be what was said on the House floor, which is often represented to the public as something which was said on the House floor, but in fact was never spoken, and so therefore, could never be challenged. So they are not asked to defend those things which they are saying. Whereas, someone discussing the issue on the floor is in a position of having to defend what it is they are saying.

I happen to think that the legislative process is furthered by people who are willing to have their viewpoints challenged. I am disappointed from time to time that people who, on the outside, will raise criticisms, refuse to come to the House floor and make those criticisms here where someone might be able to challenge them.

□ 1200

But the issue of cost, then, does, I think, raise questions in the public mind and so, therefore, need to be defined because if, in fact, the Democratic Congressional Committee is right in the press releases that they are sending out to people's districts, that in fact this business of the CONGRESSIONAL RECORD is very costly, then it seems to me that the Democratic Congressional Committee has an obligation, through the majority party, to bring

to the floor a rule which stops the abuse of the CONGRESSIONAL RECORD.

There are a number of abuses of the CONGRESSIONAL RECORD. We had one on the floor the other day, talking about the fact that the Members have a right to lie in the CONGRESSIONAL RECORD by the ability to revise and extend. I think that is a real problem.

But in this case, the issue is this: Should Members be allowed to put large volumes of material into the RECORD that was never spoken on the House floor and thereby pass the cost along to the taxpayers? The Democratic Congressional Committee, the campaign arm of the majority party in this House, has said in the press release that they issued in order to criticize Members of the minority side, that it costs $6,500 per hour for the cost of printing additional pages into the CONGRESSIONAL RECORD.

If you take the CONGRESSIONAL RECORD, you will find that each hour of time is about 6½ pages of the CONGRESSIONAL RECORD so, therefore, what the Democratic Congressional Committee is saying is that it costs somewhere between $900 and $1,000 per page to print the CONGRESSIONAL RECORD.

I have asked the Clerk, and the Clerk says that that is just a total phony figure; that that is not, in fact, the cost of printing the CONGRESSIONAL RECORD. It is actually about half that amount to print the CONGRESSIONAL RECORD. But that is what the Democratic Congressional Committee has to say. I assume that they did not mean to lie, but the fact is that their release says $6,500 per hour, and it takes about 6½ pages of the RECORD to consume an hour.

So if they are right, then we went and did a little more research. I had a young lady over at the Republican Study Committee by the name of Krista West go back through and find out how many pages of the CONGRESSIONAL RECORD there were since the beginning of this Congress, between January 3 and May 7 the Democrats have inserted into the CONGRESSIONAL RECORD, how much material had the Democrats simply put into the CONGRESSIONAL RECORD. Now, not back in the Extensions of Remarks in the back that is provided for that, that is costly, too, but how much in the body of the RECORD while the House is going on in special orders, during debate, where they have inserted material into the RECORD. How much have Democrats put into the CONGRESSIONAL RECORD over that period of time at a cost that the Democratic Congressional Committee says is nearly $1,000 per page, at least $900?

What I find is that there are over 250 pages of such material that have been put into the RECORD. In other words, the Democrats who complain about the cost of the minority in printing the CONGRESSIONAL RECORD have, in fact, themselves cost the taxpayers nearly a quarter of a million dollars for printing material that they refuse to say on the House floor; that they refuse to have challenged as a part of the debate process on the House floor; that they simply stuck into the RECORD without having it debated on the House floor.

That is their figure. They say that it cost $900 to $1,000 a page, and I counted up the pages through the Republican study group's work, and we found the 250 pages.

My question is: Why is that a responsible action if, in fact, what they are going to do is put out these kinds of press releases, make these kinds of claims about cost, why is it a responsible action for them, then, to be sticking this material into the RECORD and costing the taxpayers. Should not a reform take place that stops this abuse if, in fact, it does as the Democratic Congressional Committee claims, costs $900 to $1,000 a page for the CONGRESSIONAL RECORD.

I would far prefer, as a Member who is committed to the debate process in the House, that those Members come out on the floor, speak their minds, have their viewpoints challenged, and make certain that what is said is, in fact, the reality of debate rather than the phoniness of debate that takes place when we are simply inserting material into the RECORD, evidently at great cost to the taxpayers, according to the Democratic Congressional Committee.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I will be glad to yield to my good friend from New York, the chairman of the subcommittee on which I serve.

Mr. WEISS. I wonder if he would yield to me so that I could ask unanimous consent to proceed for 5 minutes for a discussion of revenue sharing that the gentleman himself may want to participate in.

Mr. WALKER. I would be very happy to yield some time to the gentleman to do that.

Mr. WEISS. Mr. Speaker, I ask unanimous consent that I be allowed to have 5 minutes to address the House and to revise and extend my remarks and include extraneous matters therein.

The SPEAKER pro tempore [Mr. STALLINGS]. After the present special order, that request would be in order.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WALKER. Mr. Speaker, I can simply yield to the gentleman, and he can talk about whatever he wants, can he not?

The SPEAKER pro tempore. The gentleman is correct.

Mr. WEISS. I would appreciate that.

Mr. WALKER. I would be very happy to yield to the gentleman to make any comments that he might wish to make relative to revenue sharing.

GENERAL REVENUE SHARING

Mr. WEISS. I very much appreciate my distinguished colleague yielding to me.

Mr. Speaker, I am rising to speak on behalf of the general revenue sharing very briefly because I know that the budget resolution will be coming before this body as of next week, and that there is a recommendation probably forthcoming which will adversely affect the general-revenue sharing program, and before that becomes finalized I thought that perhaps a few minutes of discussion might be in order.

General revenue sharing is a program which has operated successfully since 1972, because of strong bipartisan support in both Houses of the Congress. It is the most efficient, fair, and cost-effective grant program that the Federal Government operates.

Each year, less than one-tenth of 1 percent of program funds goes to administration. With the remainder going directly for vital public services such as police, fire, ambulance, education, and health care. The distinguished gentleman from Pennsylvania, who is the ranking member on the subcommittee, together with other members of the Subcommittee on Intergovernmental Relations and Human Resources of the Government Operations Committee, had occasion, earlier this year, to hold field hearings across the country. We held hearings in Cedar Rapids, IA. We had representatives, that is mayors, supervisors of various counties from five different States.

We held hearings in Austin, TX; we held hearings in Charleston, WV; we held hearings in Boston, MA, in addition to holding hearings in Washington, DC. The story was the same, in location after location from mayors of big cities and small towns and everything in between.

County supervisors, representing some 39,000 units of government receiving revenue-sharing assistance based on a formula which makes the automatic determination as to what communities are entitled to, without the necessity of paperwork having to be engaged in. In many instances, these communities get not another nickel or dime of Federal funds except what they get from the revenue-sharing program.

We were told, without exception, that if the revenue sharing programs are cut that they will have only two choices at the localities. They can

either cut services or they can increase taxes, and the increase in taxes will go on, in most instances, real estate, on real property, on people's homes and farms and business properties that they own. The fact is that in most communities they are already paying real estate taxes up to the very top level permissible, and in many States the communities cannot levy greater taxes because there are provisions of the law which in essence put a limitation on how much of an increase in real estate taxes there can be.

Thirty percent of the moneys that go for the revenue-sharing program go for the basic services of police and fire, so that this is not a matter of using these moneys for frills. We had testimony from small town mayors. I remember one community of maybe 1,200 people where the mayor testified that they took the couple of thousand dollars that they received from the revenue-sharing program, bought materials, and then volunteers from that small community themselves used the materials to repair the roof of the town hall. We had testimony from communities that do not have water yet brought to them, where they have used revenue sharing to install water systems.

The revenue-sharing program has been a very useful, effective, essential portion of the Federal fiscal relationship with the localities for these past 13 years or so. It has eroded, as a matter of fact, some 50 percent in value because there has been no increase in the revenue-sharing program since its inception.

□ 1210

The program was never intended as a surplus-sharing program. People tell us, "Well, we have deficits now, so we can't share what we don't have, deficits." The fact is that the revenue-sharing program was begun under the Nixon administration at a time of Federal deficits, and Federal deficits have existed in each of the years in which the program has been reauthorized.

There is often a sort of an attitude that says, "Why should we, the Federal Government, in our largesse give them, the localities, our money?" Mr. Speaker, that has it all upside down. It is not our moneys. Every single dollar that the Federal Government collects comes from people who live in our hometowns, in our constituencies. The Federal Government takes a great deal of money from those localities. At the same time the Federal Government mandates programs, and I think rightly, but nonetheless the Federal Government mandates programs, whether they be air quality or water quality or access for disabled and handicapped people to public places or updating correctional facilities. We mandate those programs on the communities, and what the revenue-sharing program is intended to do is in a very small part to compensate or to reimburse those localities for the money they have expended on the basis of Federal mandates.

Mr. Speaker, I would hope that the House would follow the suit of the Senate with regard to the Federal revenue-sharing program and in essence freeze the revenue-sharing program. What the Senate budget resolution does is provide for funding at the same level. I think that the people of this country should have the right to expect no less from the House of Representatives, and I hope that in the course of the debates next week we will in fact be able to persuade our colleagues that revenue sharing is not a frill, that it is not a frivolous expenditure of moneys. It is moneys that go for the most basic and essential needs of the people back home.

Mr. Speaker, I want to thank the gentleman for yielding at this time to me.

Mr. WALKER. Mr. Speaker, as the gentleman knows, I participated in some of those hearings with him, and I would say the gentleman well represents the case that was made to the subcommittee by constituents across this country.

I think one point that the gentleman made needs to be reemphasized. That is that indeed there are Federal resources being spent on the revenue-sharing program. We are not in debate over that issue. The question is whether or not those resources are wisely spent in this kind of a discretionary program.

I think that the one case that is very clear on this is that we as the Federal Government, as we have come more and more into budget-crunch situations, have tended to pass on more and more mandates to local governments. We have tended to say to local governments, "We regard this as being something that is the law of the land, something that needs to be done. We don't have the money to do it. You do it." And we pass on those mandates that then become extremely costly to local governments.

The only discretionary money, the only discretionary resources that come from the Federal Government in order to meet those mandates come in the revenue-sharing program, and the way most of these communities have reacted to the mandates passed on by the Federal Government is to use revenue-sharing money in order to meet those mandatory obligations.

In my mind, if we are going to eliminate the revenue-sharing money—and there are people around here who will make a strong case in that regard—if we are going to do that, it seems to me we ought to have an accompanying bill with that, and that is a bill that eliminates all the mandates we passed along to those same governments. I do not think that we can say that we are going to have it both ways, that we can impose mandates across this country and then not provide the resources with which to meet the mandates. I think that becomes a ludicrous policy for this Congress to pursue.

If we are going to withdraw the resources, then let us withdraw the mandates, too, and let local governments meet their own locally determined priorities with their own resources and not impose our priorities on those resources. If we are going to impose priorities on them, then we ought to provide at least a modicum of resources with which to meet the priorities that we have passed on as obligations.

We heard that in a number of instances from local communities, that that is a major problem for them, that the kind of mandates the Federal Government imposes is indeed a problem for local governments. I think that that makes one of the clearest cases that is available for a continuation of the revenue-sharing program, even in a budget-crunch kind of situation.

I am one who is pretty sensitive to the whole business of the deficit, but I think that the way in which we manage programs around here is also a deficit question, and we have some horribly managed programs where we have attempted to micromanage things out of Washington that cost us great gobs of money. But here we have a program that costs us next to nothing to administer and in fact is helping to pick up mandates that we as the Federal Government would have to pick up otherwise, and does so at a cost which we have been able to freeze for a number of years. It does not make sense to wipe out the most efficient programs in order to keep the most ineffective programs. That to me is a kind of a crazy way to proceed.

Mr. WEISS. Mr. Speaker, I appreciate the gentleman's comments, and he is quite right in saying that the Federal Government gets a tremendous bargain. We nowhere near compensate the local governments at the local level for the mandates that they fulfill. So it seems to me that at a time when we keep on talking about shifting burdens to the local governments and shifting resources to them to meet those burdens, for us to take away one of the very few programs that in fact gives them resources from the Federal Government does not make sense at all.

Mr. Speaker, I thank the gentleman for yielding.

Mr. WALKER. Mr. Speaker, I thank the gentleman for his comments.

I certainly hope that if we end up with a budgetary program—and we all are going to have to face tough decisions on this, me as well as the gentleman—at least if we face the budgetary crunch of having to cut off those

funds, we will include with that language that withdraws all the mandates that we have put on local government, because at that point we will have at least partially compensated them for the loss of the resource, but also will have assured that in losing the resource they are not tied to Federal mandates that they cannot meet with local moneys.

This has become something of a potpourri of a special order, with a whole series of questions we have addressed here during the time.

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, I was sitting here listening to some of the discussion. I want to try to take a little different tack on this issue of revenue sharing.

I think it is fine if we freeze revenue sharing, but the fact is that we have to evaluate what we spend money on in this country at the Federal level, what is important and what we cut. We have an expenditure request from the President, from the Senate, and probably from the House that will far exceed the revenues we have available to meet it, and so we have to decide where the cuts come from.

I think that philosophically the Reagan administration, since the day it took office, has really decided it wants to move back to the notion that that Government which governs least governs best, and local government is better able to make decisions about these local issues than we are.

I have found in the last dozen or 15 years that the growth of programs by which one level of government raises money and then sends it to another level of government and says, "You spend it" breeds, in some instances, at least the most irresponsible of public spending. Generally speaking, when you have public officials who are requred to raise the revenues and then required to oversee their expenditure, you breed, it seems to me, the most efficient kind of allocation of resources.

By that I am not suggesting that all EDA, all UDAG, all community development grants, and all revenue sharing is bad. But I am saying this: I think there was an explosion of programs that were developed in Congress in the last decade, especially or the last dozen years that said: "Raise the money here because it is easy to raise the money, send it back there, and you go ahead and spend it back there."

For that reason, for example, in my home State, 1,500 miles from any major body of water, or any ocean, we have a swimming pool with a wave machine. Why? Why do we have a wave machine that has a bellows at one end and a beachhead at the other and gives 2-foot to 3-foot waves in the middle of summer? Well, not because the folks back home said: "We really want to spend our money on that." It was because there was some Federal money in a Federal program, and they said: "You build this swimming pool in this neighborhood, and you have this extra money, so you go ahead and buy a wave machine for it."

That is just one example of what exists all around this country.

I am just saying that when you take a look at our responsibilities, the revenues we have and the spending needs we have, including the highest priority needs, that is, feeding the hungry, helping the disadvantaged, educating the American people, and so on, when you make those choices, I think you need to make them in a philosophical framework of deciding how we most effectively spend money that meets the most critical needs. When we talk about revenue sharing, or UDAG, or EDA, or any the other programs, we have to continually keep that in mind.

All the mayors and others have contacted me, and I understand they have contacted all of us about revenue sharing. Again I am not saying that we have to zero revenue sharing out tomorrow. But I recall when revenue sharing was enacted in Congress—I was not here at the time—the whole underlying theory of revenue sharing was always, at its genesis in the 1960's and leading up to its enactment in the 1970's, that because of a progressive tax system interacting on an economy such as ours, we would have fiscal drag if we did not yield back those surpluses of revenue that we collect in the long term at the Federal level.

□ 1220

Well, of course, the surpluses have never materialized and therefore we need never have worried about fiscal drag resulting from surpluses.

But I wanted to raise those points simply in the context of the discussion that the gentleman was having about revenue sharing, because it is even broader than that. It deals with a lot of programs that send money elsewhere, where one government collects it and the other government spends it.

Mr. WALKER. The gentleman makes a legitimate point, and it is in fact many of the points that the opposition will make, but I think the gentleman maybe missed my point and that is the fact that we do not have a system in this country at the present time which is allowing local officials to use local resources for locally determined priorities. What we have in this country in too many instances is a system which allows local officials to raise local resources; in other words, raise local taxes to meet mandates imposed on them by State and Federal governments.

I think in that kind of climate that the Federal and State governments have some obligation to fund the priorities that they are mandating on local officials.

I can be fairly comfortable with eliminating a revenue-sharing program in a climate where the Federal Government was not imposing mandates upon local governments, telling them: "You assume the costs, but we don't give you any of the money." I could be reasonably comfortable with that, but the problem is that that is not the situation. In fact, during the growth period that the gentleman has talked about of a lot of these locally derived programs, we have not only begun spending some money for them, we have sent back a minimal amount of money for the amount of mandate that we have tied to that money.

My point is this, that if in fact we want to get rid of revenue sharing, we want to get rid of UDAG's, and community block grants, and a lot of these programs, and I personally could endorse getting rid of a number of them, but then at that point let us not tell local officials that they have got to commit local resources to doing what we tell them to do. Let us make certain that they can do with that money what they determine should be done, rather than meeting mandates as prescribed from Washington. Until we get that kind of balance, it seems to me then we are really doing something which is destructive of local government when we say to them: "There are no Federal resources, but you will have to meet our mandates." That to me causes all kinds of dislocations and all kinds of problems.

I will be glad to yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Let me say that I accept the premise of some of what the gentleman says. I understand that. We do at times say: "Here is your requirement, local government, but it is not our business to deal with the resource question."

I understand the unfairness of that. I understand the predicament that puts some of the local officials in and in some cases that is unwarranted.

The gentleman's suggestion that we have to map some of these things is one that I understand and accept.

On the other hand, the gentleman knows and I know, I grew up in a town of several hundred people. I recall when that town decided whether or not it wanted to pave its streets. There was a big question, because you know, we had gravel streets in our town. It was a question for the townspeople, whether or not they wanted to commit that kind of resource. In course, in later years it has not been that difficult a question because there has always been a program that comes from someplace else that will send money to that town. You do not have to go through this decisionmaking.

What do you want to spend your money on? Some of those communities were dumping raw sewage upstream where the kids were swimming downriver. Well, you know, ultimately the Government said: "You can't do that. You have got to treat that sewage," and there are restrictions. So in those cases the Government said: "Here is some money to do it."

But we also said: "It's also part of your responsibility, local government, to handle those affairs because you do collect a property tax and have a local revenue base."

I accept part of the gentleman's premise and I think this is a constructive dialog. I am just saying that it is not an easy question to answer precisely where these resources ought to be cut or how much we are to offer, where it ought to stop; but I am saying that it is important.

Let me just say also that I am not very complimentary of President Reagan's leadership on this floor, for a lot of good reasons, I think, but I do compliment him for his leadership since 1980 in stopping the explosion of some of these kinds of programs, to say: "Wait a second, let's take a look at what we are doing. Are we just sending checks all over and saying we raised it, you go ahead and spend it?"

I compliment the President for saying: "Let's start putting the brakes on some of those kinds of things."

Mr. WALKER. Well, I personally think that it would be very valuable to start a turnback of responsibility, as well as resources, and that we would do a great deal for the empowerment of local government and for the empowerment of local people by beginning a process that gets the Federal Government out of a lot of these things and allows resources to be developed at the local level; but it really does strike me as puzzling that we have a Congress that is willing to eliminate those programs that are discretionary in nature, while we continue to fund programs which are far more arbitrary in nature. I think that exactly the reverse should be true.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from New York.

Mr. WEISS. Mr. Speaker, I thank the gentleman for yielding to me.

You can always find a wave machine, a wavemaking machine, to wave in an effort to try to discredit a program which benefits 329,000 communities.

The fact that some community leaders do irresponsible things should not be a justification for eliminating a program where the overwhelming vast percentage, in fact, it is used for the most basic of community services, in many instances to meet Federal mandates, as the gentleman has said.

Mr. WALKER. Well, if the gentleman would allow me to reclaim my time for just a moment, as the gentleman pointed out in his remarks, and it is absolutely true, and the testimony shows it, and the facts and figures show it, there can be no doubt about it, where the money from revenue sharing goes is for fire protection and law enforcement. The vast bulk of the money goes into those particular elements, so it really is a question of public safety that is largely involved in the revenue-sharing program.

The gentleman is right. You can find abuses. I am very good at coming up with abuses in programs around here and you can find them all the time; but we should understand that in the case of revenue sharing, I have no doubt there are abuses. I have no doubt that you can come up with a laundry list of them.

We also hear about rich communities that are getting revenue-sharing money, and that is in fact the case, just as there are millionaires who get Social Security checks and we do not talk about eliminating the Social Security Program because some millionaires get checks out of it.

There is really a need to look at what the bulk of the money goes for and if in fact you are against doing some additional crime fighting and you are against local fire companies having some additional resources available to them, you may in fact take the position that revenue sharing has not worked; but if you look at the realities, the fact is realities say it is public safety that is most enhanced by what we do with revenue sharing.

Mr. WEISS. Mr. Speaker, will the gentleman yield again?

Mr. WALKER. I am glad to yield.

Mr. WEISS. The fact is that the communities are required by law and do so as a matter of practice of holding public hearings in which they ask the community to come forward and tell us how we ought to spend this money, whether we get $2,000, or $15,000, or $35,000, or in the millions in some of the larger communities. The decisionmaking really is made by the leaders of those communities on the basis of what their constituencies tell them.

We have small county representatives who came and told us that under State law they are held responsible for providing ultimate support and shelter for elderly people without any other means in their communities. Well, where do they get the money from? The only way they are able to supply the necessary programs now is to take revenue-sharing funds.

What happens if in fact that money is taken away from them? In many instances they cannot raise taxes any more because the State law prohibits them from increasing real estate taxes. The State still insists that they provide the services, so what they will have to do is they will have to cut someplace else. Maybe they will reduce the number of policemen or firemen they have in their communities.

Again what we are talking about are basic needs in society. It is ironic, it seems to me, for us to take a situation where we have said categorical programs really do not make as much sense as we thought they did because the Federal Government in those instances tries to tell localities how to spend their money.

So, OK, revenue sharing is discretionary. It says: "You make your determination as to where you use the money," and then we go ahead and say: "Oh, but we are raising the taxes and letting you spend the money."

It is an argument that you can play both sides against the middle for a long time, but ultimately something has to give.

Mr. Speaker, I thank the gentleman for yielding.

Mr. WALKER. Well, I thank the gentleman and we go back to the statement of the gentleman from North Dakota when he raised the question of one of the major priorities on his list. I might have put defense on the list, too; but one of the major priorities on his list was education.

The fact is that education takes place in this country mainly at the local level and what we have had happening as a result of several categories of programs is that we have been mandating more and more on those local units, local school districts, with relatively little in the way of resources.

Revenue sharing, although it has to be in some cases through the backdoor method, another major area of revenue sharing has been to get money into the education communities. In some cases it has gone and helped library systems. There have been various ways of doing it; but if you add the educational element into the public safety element, you have really begun to speak to some of the needs that the gentleman from North Dakota himself specified as being major national goals, that in fact are being implemented at the local level.

Mr. WEISS. Mr. Speaker, if the gentleman will yield for one final comment, it has been said before and it is worth saying again, there is no free lunch. If people think here in this body that by eliminating a program like revenue sharing you are ultimately going to get off without consequences, we are kidding ourselves.

□ 1230

What is going to have to happen is either vital services are cut at home or your citizens, your constituents back home are going to be asked to pay increased real estate property taxes, and

ultimately they will know who is responsible for those cuts in services and for those increases in property taxes.

I thank the gentleman.

Mr. WALKER. The gentleman is right. And I think it is also that there is a need to recognize that through discretionary programs it is in fact possible to begin the process of reducing Federal commitments while getting positive results out in the country. In the case of revenue sharing we know very well that the Revenue-Sharing Program has not been increased at all for a number of years. It has been held frozen, not just for the last couple of years when freeze has been a big item in Washington, but it has been frozen for most of the life of the program. So we are talking about a program that shows that with reducing resources you can still meet a broad base of legitimate needs.

If you put that together with what we did in education, and the gentleman and I are not wholly in agreement on this, I know, but with the educational block grants that went into, for example, to fund the great bulk of the country, the school districts across the country where we were able to deliver more money with the block grant to those school districts than we had delivered in the past.

Mr. WEISS. The gentleman is right, we do not necessarily agree on that.

Mr. WALKER. The gentleman has some concern about the urban school districts. But the fact is, what I am saying is for the majority of school districts in the country under chapter 2 they got more money under chapter 2 than they had gotten before because we did eliminate some of the bureaucracy at the Federal level and we forced a State passthrough mechanism that assured the delivery of funds.

I think that a case can be made in that case, too; we showed that despite the fact that the funding levels were either held even or cut back in a couple of instances that the delivery of money to the school districts was enhanced, and I think we are beginning to see some examples of that.

It is a shame to step in and cut out some of the more efficient ways of delivering money.

Mr. WEISS. If I may make just one more point on the education point, the program I think perhaps that is most relevant is the Congress passed legislation mandating that each child receive equivalent educational programs and resources regardless of the special education needs of children within our communities. And the Congress said at the time that they reinforced that mandate to the localities by they were going to make sure that we provided them with the resources to meet the needs of those kids.

Well, not only did we never provide what we promised that we would, but in those instances where revenue sharing has been used, in New York City, for example, 7,000 teachers had their salaries paid for out of revenue-sharing funds. Now we are saying that is going out.

You know we are not going to cut 7,000 teachers. But what it will mean is that we will be cutting some police people, some fire people, some health service people, sanitation people, to make up for the revenue-sharing funds that are lost.

Mr. WALKER. That is one of the best points that we could possibly make about the system of mandates, because that has been a very, very expensive program, not that it is not a worthwhile program. But when you start talking about equivalent education, and you realize the broad range of people that affects and how that affects school districts where they may have one or two children with special handicaps, where they have to make multimillion-dollar decisions with regard to building access and a number of things in order to accommodate those couple of kids, when you have that mandate from the Federal Government you are imposing tremendous costs often upon school systems. And the gentleman is absolutely right. We have got to be willing then to follow our mandate with resources.

Mr. WEISS. I thank the gentleman.

Mr. WALKER. I thank the gentleman very much.

As I said a couple of minutes ago, this special order is somewhat of a potpourri. But I had made the point earlier with regard to the CONGRESSIONAL RECORD abuse that I think needs to be aired, and I have fairly substantially made that point.

But I think maybe what we want to do is perhaps move into another issue that will be coming on the floor next week where I have had some involvement, and a couple of the gentlemen on the floor with me have had some involvement over the last several months, and one where we feel very strongly that an approach has to be taken that will in fact enhance U.S. policy rather than detract from U.S. policy. And that is the whole issue of what do we do about apartheid in South Africa.

The gentlemen who are on the floor with me here have in a variety of ways demonstrated that there is in fact a conservative and a Republican viewpoint on this issue which is vehemently antiapartheid but also has some belief that we are about to take some actions in this body that might in fact undercut our ability to deal with that abhorrent system rather than enhance our ability to deal with that system.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Let me yield to the gentleman from Georgia.

Mr. GINGRICH. I want to say to the gentleman from Pennsylvania that I will be doing a special order this afternoon on specifically the issue of how a free society can have an effective foreign policy in a dangerous world. And I am going to talk about three different levels of difficulty, the difficulties of Leninism and the Soviet Union, the difficulties of terrorism, including the recent disaster in Philadelphia, and finally the difficulties of dealing with States which are not a direct threat to the United States but whose policies are abhorrent.

I would say to the gentleman that in a sense the text I want to talk about, because I think the debate next week will not be about South Africa, and I think the debate next week will be about how America is effective, my text is from Abba Eban and his new book "The New Diplomacy of International Affairs in the Modern Age, 1983."

As the gentleman knows, Abba Eban was the remarkably articulate and persuasive Israeli Foreign Minister for many years, and in his new book he said, and I quote from page 68:

> The speed and vigor with which Carter supported the tide of change obscured an essential question. Was any regime in the world so oppressive that it was incapable of becoming more so? The dilemma was well illustrated in Iran and Nicaragua. When the United States weakened a pro-Western dictatorship the end result was not a pro-Western democracy but an anti-Western despotism. The Ayatolla Khomeni was no improvement on the Shah. This tends to support the view that the United States should determine its relations with other nations in accordance with their contribution to stability rather than by reference to their domestic conduct.

The point I want to make is that the former Foreign Minister of Israel is saying to our liberal friends, people I have characterized sadly in foreign policy as being ostriches, that if they will look at the track record of their sincere and well-motivated human rights initiatives in the 1970's they will see that they left across this planet a series of disasters of unparalleled threat in each area, that their interventions, while well meaning, were as fundamentally flawed as a 13-year-old deciding that he could be an appendectomy surgeon and cutting open his sister's tummy to see whether or not he could take out her appendix.

The thing that bothered me, and I say this as somebody who 2 years ago voted for the liberal bill on sanctions on South Africa because I wanted at that time to express my condemnation and my disagreement with South Africa on apartheid, that having studied much more carefully, having over the last 2 years had a lot more time to think about this question of how a democracy functions in a dangerous world, I think there are certain fundamental flaws in the liberal approach

to sanctions and there are certain fundamental flaws in the liberal approach to how you help a nation make the transition to democracy. And if our liberal friends will look at Ethiopia, Zimbabwe, if they will look at Iran, if they will look at the problems in Nicaragua today, and on the other hand, if they will look at some success stories: Why is it that Argentina is today a democracy? Why is it that El Salvador is, and I am going to quote in my special order from the New York Times which says today, "As Duarte begins a visit to the United States, optimism returns to El Salvador."

What are the lessons of success in creating a positive environment? I think we will see a very different story in looking at that special order.

I thank the gentleman for yielding.

Mr. WALKER. I thank the gentleman. I think that one of the key points that needs to be raised in all of this is what do the reformers in some of these countries wish to have done.

Over the last several months I have had an opportunity because of my involvement with the South African issue to talk to people from South Africa, not the people who are trying to defend the status quo there, not the people who are trying to move slowly in ending apartheid, but the people who are taking the risks within their own country to try to end that absolutely horrible system, and they have seen, in some cases, opposition Members of Parliament, in some cases tribal leaders. But they are people who are very much involved in their own country in trying to stop the apartheid system, in trying to empower black South Africans in a way that they will have opportunities to be a part of the economic and political processes of their nation in the future.

□ 1240

What we hear from them almost uniformly is that they do not agree with an approach that will decimate the economy in their country, that they think that that would be counterproductive to everything that they are attempting to achieve; that they believe that what we need to do is have the kind of activity in South Africa that assures that American businesses and the American presence there is such that it empowers blacks economically, that it gives them the opportunities necessary to become a part of the political process, that it shows by example that in fact a nonsegregated society is the strong route for South Africa to pursue in the future.

If we can develop those kinds of policies in this country then we will have the opportunity to see South Africa not be lost as a pro-Western country but, rather, become a country that recognizes the need to have its black majority involved in all aspects of its society, but does so in a way that does not force it to go the route of a dictatorship of a Zimbabwe or other kinds of nations in Africa that have proven to be economic and political disasters.

I have been struck with what I have heard from a lot of these leaders that we would face a very grave decision if we move in the direction that some are suggesting where we pull out and simply say that South Africa is so bad that we should have no involvement there.

There is no doubt that it is bad, there is no doubt there is a major problem there, there is no doubt something needs to be done. Some of us in this country have taken a stand against people in our own political ranks who basically were willing to support the status quo.

Our own administration is not happy with some of us who have seemed to say we want to go further than the administration's constructive-engagement policies because we think something more needs to be done.

But to go the route of attempting to undermine and destroy the economy of South Africa in the hopes of reforming it is probably not only counterproductive but actually destructive of the future relationships of this country with theirs.

Mr. Speaker, I will be very glad to yield to the gentleman from Wisconsin, who has been very, very active in this field and will probably offer on the floor next week one of the major alternatives to be debated as part of our discussion of the entire apartheid act.

Mr. GUNDERSON. Mr. Speaker, I appreciate very much the gentleman yielding.

I think really, Mr. Speaker, that the gentleman and our colleague from Georgia, Mr. GINGRICH, have absolutely focused on the real question we ask next weekend, perhaps a question that will have significance on down the road in terms of other foreign policy actions.

That question is do we simply want to make a moral statement that makes us feel good, a legitimate moral statement that may be correct, et cetera, or do we want to be constructive and positive in influencing change elsewhere around the world?

I think South Africa hits that example better than anything else.

There is to my knowledge no one who is a Member of this body who does not absolutely deplore what is going on in South Africa at the present time; say it is wrong, say that it needs to be changed, and it needs to be changed as soon as possible.

The question is how do you bring about that change? Or don't we want to be a part of the process of bringing about change, do we simply want to make moral statements?

As you look at some of the options we will consider next week there are really two very separate and distinct alternatives. One alternative is going to come up and immediately impose sanctions on the Government of South Africa, upon American companies doing business in South Africa, et cetera, saying "Today is decision day, period. There is no future, there is no opportunity for change, come what may in South Africa we are going to make that decision." That sounds good. It makes good press releases. It makes you feel good.

I would suggest to anyone who studies what is going on with South Africa and realizes that until you make those changes you need to deal with the Government that is there whether you like it or not and how do you bring about political change in that system under the present process?

Now we can come down with all kinds of heavy-handed statements as some administrations in this Government have done during history with South Africa and elsewhere around the world and we could have that government rejected. We can have them put their backs up against the wall and affirm their position and say: "I am not going to allow the United States, the big brother from the West, to tell us what to do."

I think there are some indications in the past that that has happened even in South Africa.

The question is, "How do we come down with a moral statement then which allows them to make positive decisions and really bring about some change?"

Really I think there are going to be two substitutes offered next week which merit some type of consideration in this regard. I shall be offering one. Our colleague from Michigan, Mr. SILJANDER, intends to be offering another. They are not all that different. Really we are talking about much the same thing from two different perspectives. Perspective No. 1 would be that we provide additional funding, funding in particular aimed at the blacks in South Africa. They need education. It is a crime when you compare the amount of public funds invested in education for the black population in South Africa with that invested by the Government in the education of their whites, and we need to provide some additional funds, some additional scholarships, some additional training programs to allow them to move forward and to become a part of the future, viable South African economy.

The other side is what we call conditional investment. That is, do you allow no investment with immediate sanctions, which the major proposal in front of us next week will do? Or do we do nothing? Or is there a middle ground? I suggest there is a middle ground in which we allow the concept of some type of conditional invest-

ment, we allow investment to occur for a couple of years, we lay down the conditions to pass laws with respect to the homelands, those types of things which absolutely must be changed, and we then come back and we say, 1 to 2 years down the road, what has happened, what progress has been made, has progress been made, is South Africa changing their ways and moving into the modern world of recognizing each person for their true equality and legitimacy of purpose on this Earth?

Now many people would say well, you ought not to even have conditional investment, you ought to just allow investment because investment is a step in the right direction.

I think it is wrong for America to totally ignore the issue. We are the leader of the free world. That leadership gives us some responsibility. And by virtue of that we do have an obligation to make sure that some type of positive action does occur in South Africa at some point in time. But we do not come in as heavy-handed big brother and say, "Do it now or you are done." Rather what we do is we come forth and say, "Here are our conditions. You decide."

Mr. WALKER. If the gentleman would allow me to reclaim my time, I think the points the gentleman makes are good ones. He also mentioned a third alternative which I think we need to recognize. There are a number of policy-oriented people in this country, a lot of people in the public who believe we should do nothing with regard to South Africa, the status quo is just fine and ultimately they will work things out for themselves. My own impression of that is that that is not really a responsible policy option if in fact you are truly anti-apartheid at this point.

I am afraid, and my reaction is that we have some people in this country, I am sad to say, who are actually pro-apartheid, who are perfectly satisfied to see this system continue.

I think that is sad but the fact is you also have people who claim to be anti-apartheid but do not want to do anything.

The problem with that is if you talk to the people within the country who want to see reforms made, they say that is not an option. If the United States, in order to assure that there is movement to end the apartheid system, which they think there is a historic opportunity to do right now, needs to confront the Government of South Africa with some kind of a program.

Now they would argue that it should not be a disinvestment program of the type some of our liberal friends are talking about offering, that that is the wrong route; but that we need to do something, we need to have some kind of a program.

Many of them endorse, for instance, mandatory Sullivan principles, mandatory labor practices for American businesses. They endorse ideas like helping in educating black leaders and the black populace. They are for positive kinds of alternatives of that type, but they think that would put the appropriate kind of pressure on their Government and would do so in a way that is positive, a positive thrust for the future. But they are adamantly opposed to doing something, as the gentleman mentioned a few minutes ago, to make ourselves feel good.

The problem is part of this debate is not a debate about South Africa but it is a debate how we are going to be perceived in this country.

□ 1250

Now, the question that the gentleman raises is a true one: Is that really the important question here, how this plays out in this country, or do we want to do some positive good? Is this posturing or is it real?

I think that if we can develop an approach like the gentleman has suggested, which also is the approach which seems to be gaining the most credibility in the Senate, we actually have a chance of enacting something here, something that would send all the right messages to the South African Government that they have got to begin to change, and it has got to be a change of a very rapid nature.

If we end up doing nothing but posturing for political purposes or whatever purposes; moral purposes, social purposes, economic purposes—I do not know why we are posturing, but if that is all we end up doing with what we do on this floor, and we end up with a bill that the President will not sign that gets vetoed, that has very little chance of getting a two-thirds override vote in either House, we end up then, having had the major discussion in the country where nothing is done.

What kind of signal does that send to South Africa? It says that the political process here is not able to respond, that they are more interested in posturing for political purposes back home than they are in really responding, and it seems to me that you end up then with the South African Government getting precisely the wrong signal, and perhaps we aggravate the very situation that we claim to want to solve.

Mr. GUNDERSON. Exactly. Will the gentleman yield?

Mr. WALKER. I will be glad to yield to the gentleman.

Mr. GUNDERSON. I think it perhaps even more serious than that. The gentleman indicated earlier that we are facing this question of perception. The issue is now going to be before us, and all of a sudden, now the question is what are we going to do? To fail to pass something by the House and by the Senate at this point would probably be interpreted around the world, at least by many in South Africa, as an indication of American support for the present policies of South Africa.

So I think that we are beyond the hill, so to speak, and going down the other side, and the question now is how do we handle that, and so we do have a very important responsibility to find a policy. We can pass here, it can pass the other body, that the administration can support, and live with, and can bring about some positive reform in South Africa.

Mr. WALKER. The fact is, Mr. Speaker, the gentleman knows as I do, that the administration is going to be reluctant to sign onto nearly anything, and we are going to have to fight and persuade in order to get the administration to sign onto anything which appears to be a modification of their constructive engagement policy.

So that we ought to come up with something that at least some of us who have some credibility with the administration can go to the White House and suggest to them that this is something that should be signed. If we come up with something that we do not think has credibility, we are going to have a very difficult time convincing the administration that it is a good idea; as a matter of fact, I do not intend to be a part of a process of asking the administration to sign onto something that I think would be destructive.

So that the point here is whether or not we are able to get by our own political divisions in this country and our own political rhetoric in this country and really accomplish something that will do some good in South Africa.

I think that that is the key question before us. It has been the key question, it seems to me, since the start of this debate. That is the reason why some of us wrote a letter to the South African Ambassador back in December, to try to join into the debate, because we thought it was important that South Africa begin to realize that there was no place in this country, there was no body of political opinion large enough to be called real opinion that supported what they were doing in the apartheid system.

Now there was a need to look toward policy options that would make that extremely clear to South Africa. Now we have come down to this point where we are going to have to define those policy options in a meaningful way, and the gentleman, I know his work with some of the people in the other body who are developing an approach here, and I have worked on some legislative approaches, but they are all headed in the same direction; and that is to do the right thing that will allow the kind of investment activities in South Africa that produces

real change and not just ends up producing rhetoric that has the appearance of wanting to change.

Mr. GUNDERSON. Will the gentleman yield?

Mr. WALKER. I yield to the gentleman.

Mr. GUNDERSON. Mr. Speaker, I think the gentleman brings up another very, very important point. I want to commend you for your leadership; you really were one of the first people on our side of the aisle who took this issue and said that this is not a Democrat or a Republican issue; it is a moral, it is an American, it was a freedom issue, and the gentleman needs to be commended for that.

THE 92 GROUP'S FEDERAL BUDGET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. PURSELL] is recognized for 60 minutes.

Mr. PURSELL. I would be happy to yield to the gentleman from Pennsylvania for an additional 5 minutes, and we will go from there.

Mr. WALKER. I thank the gentleman, and I was simply going to make the point that there really is a need, I think, to focus on the debate next week, and to assure the American people that we are not engaged in a process which is aimed at producing another foreign policy disaster, but that we have recognized mistakes that have been made in the past with a number of allies around the world, and that we are now going to attempt to make the right kind of changes in policy; that kinds of changes that produce modifications in systems that we find abhorrent; that produces an opportunity for the majority blacks in South Africa to be a vital part of all that goes on in their country, but that we do so in a way that does not turn the country into some kind of a pro-Soviet despotism which has been too often the example of what has happened.

Mr. PURSELL. Mr. Speaker, I would like to take some time this afternoon to officially introduce, to the House of Representatives of the United States a Federal budget presented on behalf of Group 92; about 40 Republicans who have worked on this document since January, so that we could meet the deadline of the Budget Act which was yesterday, May 15.

This budget document that I have introduced on behalf of our group, is a reflection of Representatives from many different States of this country, to outline what we think is the number one goal of this Nation; to some day achieve a balanced budget.

It is not easy to write a Federal budget. Many Members have commitments in their congressional districts; responsibilities in their standing committees, here in Washington, so we have gone above the call of duty, you might say, and tried to spend some extra hours, to outline this budget for this Nation.

So today, in introducing this concurrent resolution, I want to take a few minutes to indicate to our people in this Nation that many Members of Congress who volunteered, on our side of the aisle, to participate in this task force have given of their time personally over and above the call of duty to contribute intelligent, substantive suggestions and policy decisions on what makes up a Federal budget.

We know that a budget is not an attractive issue that appeals to general audiences; but a budget is what I consider the most sacred document of this Nation aside from the Constitution. It outlines where this Nation is going philosophically.

Is it fiscally responsible? Is it compassionate? Are we conscientious about how we spend other people's money? I think Group 92 has outlined this.

□ 1300

We are proud and we think we have a magnificent document.

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. I apologize for disrupting the gentleman's remarks, but I do want to take a moment to commend him for his leadership on this thing. The gentleman from Michigan, more than anyone, is responsible for the group of us who were able to sit down and set aside all our parochial, regional, and philosophical differences and come together with a budget that achieves over a $50 billion deficit reduction in a fair and equitable manner. I am absolutely convinced that the budget the gentleman is presenting is the fairest, it is the most balanced budget being considered by this Congress in either body. It is the most accurate, all its numbers have been checked by the Congressional Budget Office. There is no smoke, there are no mirrors, it is all hard, difficult decisions. I just hope that everyone in this body recognizes the gentleman's leadership and compliments him for the major contribution he has made not only to our process here but to the economic future of this country.

Mr. PURSELL. I thank the gentleman from Wisconsin for his remarks. The gentleman from Wisconsin has been a member of the task-force and has made significant contributions to this task-force effort.

I want to take a few minutes to list the Members who contributed their time and effort, to this task-force project. I will read them so that we will include all of the Members who were active:

The Honorable HAMILTON FISH, JR., from New York, one of the senior members of the Committee on Science and Technology; the Honorable STEWART MCKINNEY, from Connecticut, who has contributed many long hours; the Honorable MATTHEW RINALDO from New Jersey, one of the more senior Members of Congress; myself, from Michigan; the Honorable DOUG BEREUTER from Nebraska, who has made major contributions; the Honorable STEVE GUNDERSON from Wisconsin, from whom we just heard; the Honorable CLAUDINE SCHNEIDER from Rhode Island, who has been a budget analyst and has been involved in environmental issues and other issues since her tenure here in the House; the Honorable ROD CHANDLER from the State of Washington, has made a major contribution in the area of defense and the need for reform.

We also have the Honorable NANCY JOHNSON from Connecticut, who has made some enormous contributions in respect to the more compassionate programs, the sensitive social programs that impact not only on her State but the country; the Honorable JOHN MCKERNAN from Maine, who made some significant suggestions; the Honorable THOMAS RIDGE from Pennsylvania, who has made a good contribution to the effort of our task-force report and our final budget document; the Honorable ED ZSCHAU from California, who has expertise and has worked in small business and entrepreneurial activities and has made a contribution toward our effort; the Honorable PAUL HENRY from Grand Rapids, MI, from former President Gerald Ford's district, who is a former member of the State Board of Education in Michigan and a former member of the State senate, with whom I served over the years, and he is an outstanding bright young man who has a great future in this House.

Also, the Honorable JOHN ROWLAND from Connecticut, who has made some major proposals and has been an active participant in our deliberations.

Saying all that and completing our task force names, I have to say that Congressman TOM TAUKE and Congresswoman OLYMPIA SNOWE have provided some outstanding leadership in offering some policy judgments, strategic judgments, and political judgments each day to the Members.

It is difficult for one person to grasp the complexity of the budget process.

What does this budget really do? Why is it important? Why do we spend time on writing a Federal budget? Why are we not working on other issues?

Well, public policy says that you have so many hours in a day, so many hours in a week, and so you make judgments as an elected official to concentrate on the important issues of

the day that face this Nation. And, obviously, I believe that developing a constructive budget is of the highest order in public policy.

In the last 37 years we have only had six balanced budgets, and very close balanced budgets, I might add, very few dollars were left over, out of those 6 years our deficit is at an all-time high. We could take time to analyze why that occurs. We will not do that today because we all recognize that the deficit is jeopardizing the future stability of real economic growth for this Nation.

I see that interest rates dropped slightly yesterday. Inflation is down, thanks to the administration and Congresses efforts. The real facts of life as of today are that we have approximately $210 billion to $220 billion deficit. This is a major deficit facing a young country only 200 years old.

So it is incumbent upon us to say: How do we address that? How do we eliminate the deficit?

A family cannot afford to have a deficit over a long period of time. Neither can a small business or a large corporation. And when you look at a budget, you say: Where can I make reductions? Where can I tighten the belt and close down those exorbitant expenditures and reevaluate national priorities in such a way that we can protect the important responsibilities, the constitutional responsibilities under our Constitution, and at the same time achieve a balanced budget so that we can feel comfortable with that policy decision.

Frankly, I am one of the more traditional Members of the Republican Party. I believe very strongly in supply-side economics in respect that we need to lower our tax rates. We have done that recently. I have been an advocate and supporter of that. Some said we need to do it in a 3-year proposal, reducing our tax structure over 3 years. I though maybe it might be more appropriate to reduce our tax rates over 5 years, a little longer spread but a little less impact on that staggering deficit. So we had the revenues to continue a balanced budget. But in spite of that, the Kemp-Roth proposal was sound, and I think the majority of the Members of Congress feel that it has made a major contribution to the economic recovery of this Nation.

□ 1310

That is the revenue side. A budget has revenue on one side and expenditures on the other. Congress, over the years, has said simply that the easy way out is to tax and then spend. Next year comes along and we look at new revenues and we tax again. And the State legislatures look at tax increases. My State, under the present Governor, James Blanchard, a Democrat, included a new 2-percent income tax for the State of Michigan when he was elected.

I believe that when you look at Federal taxation and State taxation and local governments who have taxing powers, and revenue-producing ordinances and powers, and then you look at the local cities and townships who have taxing powers, you see the accumulation of taxes on top of taxes, and you drive a nation into what I call an early bankruptcy as you look at the history of nations throughout the world.

So it is time to pause and time to reevaluate where this Nation has been in respect to the taxing side and the revenue side, and it is very obvious, very obvious to me, that we needed to concentrate this year on the expenditure side; looking at the rate of expenses.

Let's look at a good, classic example, Medicare; an important program. It is part of our health program, but Medicare and Medicaid now cost over $100 billion, and is growing at such a rapid rate that it could jeopardize the program itself. Medicare is growing at the rate of 15 percent per year, and that rate of spending could jeopardize the Medicare Program itself.

So it is nice to have great programs, but it is more important to have fiscally sound programs, and so this Congress will have to look at those entitlement programs like Medicare. I illustrate just those two examples of programs that need attention on behalf of the Members of Congress and the Nation.

We have authorization bills that are now going through the House. We have had four. The NASA bill; the Bureau of Standards bill; the State Department bill, I believe; and one other in which this authorization bills were coming at the 1986 target, higher than 1985. So the trend was continuing in Congress until we came to grips with these four authorization bills on the floor and said, look, let us stop; let us reflect. If we are going to address the deficit, if we are going to have a good budget this year, we must start looking at a freeze. The current legislation should demand that we not spend one dime more on these authorization and appropriation bills than we spent last year. In other words, put a freeze on and hold those lines of appropriations and authorization to the 1985 levels.

Well, what will a freeze get you in a budget document, in a budget? A freeze in the Federal Government basically will add up to about $32 billion. You must look for additional money to achieve the $50 billion which the President, the Senate, and I think most Members of the House would agreed is somewhat realistic. It is a target, looking at $50 billion to take out of a trillion-dollar budget. Maybe it is not much, but it is changing the trend. It is changing the direction. It is changing fundamental policy that you have seen in this House, which has been tax and then spend; tax and then spend.

So these freeze efforts have been applied, and we have offered amendments in the House to turn that around. Our group and others, Congressman MORRISON and others, in a bipartisan effort this year, are trying to get a budget, hold-the-line policy so that we reduce the rate of growth and reduce the rate of spending at least to the 1985 level.

Our budget proposal, similar to the Senate, will accomplish the first goal this year, in 1986, starting in October, of achieving a $51 billion target to reduce deficit. There are hard numbers within our budget proposal.

Followed by that the next year, 1987, we will achieve a $91.2 billion deficit reduction target, and then the third year, a $132 billion target to reduce the deficit. So if you look at charts and you look at graphs, what I am saying here is that we are changing the trend from the rate of spending upwards and turning that graph down so that we are moving toward a lower deficit and eventually, toward a balanced budget.

Obviously, there are many ways to do it. Republicans in the Senate have accomplished a comprehensive budget proposal. The Democrats are marking up now, today and through the weekend, and will have a proposal ready for us I think next week. The Group 92 plan is one we call a Blueprint For Balance. Basically, the major points are as follows:

A $51 billion deficit reduction for 1986 without a tax increase. I repeat, without a tax increase. No. 2, a comprehensive freeze, including defense, in 1986 budget authority of $32 billion. I indicated it will get you about $32 billion in a freeze movement.

No. 3, additional deficit reductions beyond the freeze of over 75 programs that we have looked at in the Federal budget in the Federal Government. We have picked up an additional $19 billion over the $32 billion. You add those two together and you get your $51 billion budget numbers.

The 1986 budget that we are proposing, which achieves a $51 billion deficit reduction package includes the following: $24.6 billion in defense programs, which is about 48 percent of our savings. $24 billion in nondefense programs, which is about 47 percent of our budget savings. Then because those two are generally even and fair-handed, in looking at our budget, we achieve a little extra benefit because we have accomplished that $51 billion mark by saving the interest on the national debt out of the general fund of about $2.4 billion.

Do I think that is important? I think it is incredibly important when all of

us in the Nation should understand that the national debt is now $1,800 billion. It sort of shakes me up a little bit to even say what those numbers are when you look at the zeros and try to outline what a national debt is. A national debt means we are spending more than our income; we are borrowing almost 20 percent of our revenue in this general budget this year. Borrowing money to pay our bills.

What are we doing to our young generation? What are we doing to the Nation when we borrow more and we have more expenditures than we have income? Certainly we are on a self-destructive path in my opinion. I think when you look at a national debt of $1,800 billion, if you can visualize those numbers for a moment, we will be taking out of the General Fund this year an amount to pay the interest on that national debt.

What does that mean? Translated, it means to every taxpayer that every dollar that comes to Washington from the American taxpayer, 15 cents off the top goes right to pay the interest on the national debt. Fifteen cents of every dollar. That is something that all young Americans should be concerned with as well as every taxpayer, because this is accumulating and it is now, the interest on the national debt in the General Fund, is the second most expensive program in the Federal Government, next to the Social Security Program.

□ 1320

I indicated we are making a recommendation with respect to Social Security, and individuals in our group have different opinions on whether we should preserve the COLA's for Federal employees and military and Social Security recipients, and we feel probably, in light of what the Senate has done and what the House may do in keeping the COLA's in for Social Security recipients in the House that there probably ought to be, in my opinion, some bipartisan agreement in respect to the Social Security issue.

I was just looking at a poll here over the weekend published in the New York Times in which the question was asked in reference to the military dollar, and I would like to talk about the military for a minute. The public was asked: Do you think Federal spending on military and defense programs should be increased, decreased, or kept about the same?

In 1981, 61 percent said it should be increased. In 1983, 32 percent said it should be increased. In 1984, 22 percent said it should be increased, and in 1985, 19 percent said it should be increased, and in February of this year, only 16 percent said it should be increased.

Polls mean different things to different people, and polls are phrased in different language to get different results, but I think the trend is all I am interested in today. The defense budget has increased now to 28 percent of the general fund. Dollarwise translated, it is about $1 trillion 2 billion new dollars since President Carter left office.

As a former military officer in the Army, it was obvious to me that many of our military programs were inadequate and our national security was at question. If you have traveled the world as I have, it is obvious that the efforts in national security were certainly questionable because we were not in what I call a high standard of national security in terms of readiness, irrespective of the weapons systems.

This Nation was not prepared to preserve the freedom of this Nation, which is our fundamental constitutional responsibility. The States do not have this responsibility. In education we have decentralized education to local school boards and State governments, so the billions spent for education is now the responsibility of local school boards and elected State legislatures. Fundamentally it is their responsibility, and our responsibility primarily is national defense.

The defense budget needs to be reviewed in depth to establish some credibility in financing and management. The Secretary, I think, is very cognizant of that in recent months, and I think that Congress is asking for that hard, in-depth look at change that is necessary to look at our national security and look at our mission. Can we be all things to all people? We have troops in almost every country in the free world. Is that good national security? In a lot of cases it is. It is good foreign policy, obviously. The strategic deployment of troops is important and critical to this Nation. How is their readiness? Is their morale factor high?

So there have been some very positive initiatives brought forth by this administration and by Congress to rebuild and to restructure and to look at procurement policies and to strengthen this Nation on behalf of not only the United States, but fundamentally a much greater effort at being the leader of the free world.

This is the first budget document introduced in the House of Representatives this year to comply with the Budget Act. As a matter of fact, as of this hour it is the only one. The Democrats are working on theirs and probably will have theirs introduced next week. We wanted to comply with the Budget Act because it should be timely.

□ 1330

One of the basic process problems of this Nation is that we have not been presenting budgets on time. Our authorization and appropriation bills have been late, and so near the end of June and July and August we do not have our work completed on time, which I think is inappropriate, and we finish up by putting together one document called a C.R., a continuing resolution, in which we package everything that is left undone and pass it and get it over to the President.

Well, if I were the Chief Executive of this Nation, I would send it back and say, "This is inappropriately completed under the Budget Act," and I would personally veto it simply because it is bad budget process and it is bad management.

Our obligation is to have a budget completed and our authorizations and appropriations signed into law by October 1, so that by the fiscal year's ending, the President has before him 13 appropriation bills.

Now, that is just good business practice, and it is time that this Nation pressure and encourage and write to the Members of Congress, all of us, to say, "Please, Mr. Congressman," or "Mr. Senator, get your budget completed on time and get those bills to the President by October 1."

Then we could say that we have a fiscally sound document that we can stand tall and be proud of, and we could say that this Nation has a balanced budget that is completed on time.

That is good business policy.

Mr. MACK. Mr. Speaker, will the gentleman yield?

Mr. PURSELL. I am happy to yield to the gentleman from Florida, who is serving on the Budget Committee. And let me say that I appreciate his leadership.

Mr. MACK. Mr. Speaker, I thank the gentleman for yielding.

We just had a break from the Budget Committee, as the gentleman probably knows. We are involved in the markup session now on the budget, and I just wanted to take a moment here to not only compliment you for the work you have done but the entire 92 Group.

Having worked with the budget and the numbers and knowing that it is not simply a question of mathematically adding up or subtracting out numbers or dollars, I know those are very difficult decisions one has to make in going through that process, all the way from international affairs to national defense to the COLA's and everything else.

I just want to compliment the 92 Group not only for the effort they put into it but also for the product. I believe the gentleman mentioned earlier that it is the only budget proposal that is out at this time that complies with the Budget Act.

Mr. PURSELL. And on time.

Mr. MACK. That is interesting. If I may build on that for just a moment, we are now involved in the markup of

a budget document in the Budget Committee that has not been priced out by the Congressional Budget Office.

The point I am making is that while you have done your work, we are now finding ourselves, in the Budget Committee, the day after our resolution should have been completed, not in the Budget Committee itself but on the floor of the House should have been passed. We are not even working with the document that has been gone through by the Congressional Budget Office.

I would imagine that in your experience, after having done what you have, that is, after having your work reviewed by the Congressional Budget Office, you found that there were may modifications that came up as a result of it. Therefore, I know you have found it is a very worthwhile process to go through, and it has elevated your work to the point of a great deal of credibility. For that I commend you, and I appreciate the work you have done and the impact you have had on the system.

Mr. PURSELL. Mr. Speaker, I thank the gentleman from Florida, who is an active leader in the budget process and who understands fiscal management and general good government policy.

We are proud of our document. We know there are differences of opinion on some of the numbers. We are not as far away from the Senate on defense and some others as one might think, and overall we are proud to have this document introduced here on time to meet the Budget Act and be what I call responsible Members of the House.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. PURSELL. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I appreciate the gentleman's yielding to me.

I want to commend the gentleman personally and in fact all the Republican Members who gathered together under his leadership on this topic, and I am looking forward to other similar initiatives on other very important topics because I think the 92 Group is a continuing evolution of a very important development of new ideas and new approaches in a creative effort to sincerely develop the best possible good-government approach to solving some problems that can get mired down in ideology and partisanship.

So at least for this particular Member, I want to say to you and other Members who I know worked many hours with you—because I talked to some of them who went through some very long sessions with you—that I appreciate and I think every Republican and, I hope, every Member of this Congress will appreciate the kind of integrity and intellectual commitment you and the task force put into developing this budget. And I hope they will treat it with the kind of seriousness that it deserves as a major step toward trying to think through the kind of fiscal dilemmas we are in.

Mr. PURSELL. Mr. Speaker, I thank the gentleman from Georgia.

I might indicate in summary, looking at some of the details of the budget, that there had been some discussion where our defense numbers might be a little different than the Senate's and the President's numbers.

Our group came in a little tougher than the Senate. We said, "Let's have more fiscal control, and let's go with a freeze in defense until we see where we are in the defense budget." But we are only $9 billion lower on defense in budget authority than the Senate, but in budget outlay we are only $3.2 billion away from the Senate figure. So we are not far from the Senate numbers. And as I understand it, as I have seen the Democratic proposal, they indicated they are coming in pretty close to our numbers, since with our numbers, not only in defense but in the other budget functional categories, about 22 functions, the proposals that they may be offering will be close to the Senate's and ours in terms of the overall goal.

Frankly, I do not know how the Democrats get $56 billion in their budget. Their soft numbers in the budget have to be looked at, as the gentleman from Florida indicated. Their numbers have not been put through the Congressional Budget Office, so I think there will be some soft numbers there that need to be cleared up, and I think the truth in the debate on the budget will be forthcoming next week, as we probably have about 10 hours of full debate on this high agenda item, namely, addressing and putting together a Federal budget.

Sometimes it is not very exciting to discuss these issues, but I think it is appropriate that the 92 Group has, I hope, made a contribution to the White House, to the Senate, and to our colleagues on the Democratic side, as well as our Republican colleagues. Our 182 Republicans here, and looking for alternatives and looking for timely budget decisions. And it does feel appropriate that our budget has been introduced on time.

So I close my remarks by complimenting again my task force, the members of the steering committee, and other Members, about 40, who have joined the debate and who have learned a great deal. There are new Members who have had the exciting experience of putting together a Federal budget, who have learned what numbers are about and what fiscal responsibility is about, and who have learned how to say no to spending programs. That is tough, but that is political courage.

I think I can speak for the group that we were concerned about the direction of the Nation. It is bad public policy, it is bad economic policy, it is even bad politics to spend more than you earn from your income.

I think this Nation will be appreciative of the efforts of Members of Congress, both in the House and the Senate. Hopefully in a bipartisan effort we will have a budget completed through the congressional process so that the President of the United States will get appropriation bills on time to address the problems of this Nation in a fiscally appropriate manner.

Mr. Speaker, I want to thank my colleagues for their efforts, and I yield back the balance of my time.

□ 1340

FOUR GREAT CHALLENGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. Mr. Speaker, I am going to talk today about the need for new thinking, new strategies, and new institutions in America's foreign policy.

I will discuss briefly the cocaine trade, terrorism, the Leninist-Soviet threat, particularly in Nicaragua, and the problem of dealing with governments that we are not very happy with, such as the Government of South Africa with whose position of apartheid I totally disagree and which virtually every American wants to see changed.

The real theme of this talk is the question of effectiveness and at the heart of it I want to respond first to an article recently published in the New Republic, called "Realigners Cop Out" by Anthony J. Blinken, and second, I want to deal with the challenges raised by Abba Eban, the former Prime Minister of Israel in his new book, "The New Diplomacy, International Fears in the Modern Age," because I think that the question of our proposed policies in South Africa can be understood only in a larger context of what is America's role in the world and how do we deal with the complex realities of a planet on which there is sadly a great deal of violence and which, unfortunately, we have currently no effective American doctrine for survival.

Let me take as one example of the realities we must deal with, the Washington Times for today. Its headline stories include a story that carries us back to the Korean airliner being shot down by the Soviet Union, an article on international terrorists selecting new American targets in which the Is-

lamic Jihad issues ultimatum, threatens to kill six Westerners; an article on hearings yesterday in the other body in which the administration was talking about its concern over U.S. countermeasures to terrorism and how we deal with the news media and to what degree the news media in effect makes it difficult to respond to terrorism.

At the bottom of the page it says, "Firestorm of criticism engulfs Philadelphia," in which a wide range of people are unhappy with the way the Philadelphia city government dealt with a terrorist group that was equipped with two shotguns, a rifle, substantial quantities of ammunition, and had in effect turned their house into a bunker which included a steel-sided strong point on the roof of the house.

Now, the thing that I want to draw together from all this is that you and I live in a very different world than anything our parents or grandparents were ready for. When you live in a world in this building we have had a terrorist bombing in the last couple years, where you live in a world where in order to get into this building you have to go through security devices that Thomas Jefferson would have thought inconceivable; when to fly on an airplane you automatically and routinely today walk through a metal detector and do not even think about it, it has become part of the nature of our world, then we are indeed faced with some challenges.

I think that dealing with South Africa has to be seen in the context of the totality of those challenges and our friends on the left who sincerely hate apartheid, who sincerely want to change South Africa, are I think continuing the ostrich tradition of refusing to learn from their own experience, because the very same well-meaning people who asserted first that we should undermine the Shah and turn Iran into a democracy, and second that we should undermine Samoza and turn Nicaragua into a democracy, and third, that we should not help the forces of democracy in El Salvador because they clearly were incapable of winning, those people were intellectually wrong in every case.

In a number of cases, for those who have served long enough, they also had the same tradition in the seventies of being opposed to our involvement in propping up a free government in South Vietnam and in Cambodia propping up a pro-American Government and being opposed to our being involved in Africa to try to help create a free government in Angola.

Now, the first point I want to make is that the track record of the ostrich faction of American life in being able to successfully produce a democratic society is pretty dismal. They failed to find a policy which would lead to South Vietnam to survive as a free society. They failed to find a policy that would lead Cambodia to survive as a free society. They failed to find a policy that would make Iran a better country. They failed to find a policy that would make Nicaragua a free society. They have failed in Angola to produce a free society and in that tradition of failure I would say to my friends who are ostriches, what leads you to believe you are going to be more successful in South Africa?

Is not in fact the track record of what you did in Iran precisely that you are likely to destable the current government and produce a dictatorship, a dictatorship which is even more ruthless, even more bloody, even more worse and by any reasonable standard, Khomeini's Iran is worse than the Shah's Iran.

What leads you to believe you are going to be successful in South Africa in destabilizing gradually only by pulling out American influence? In fact, are you not just kidding yourselves?

Are we not in effect seeing here on the left a moral temper tantrum which will in fact probably lead to exactly the opposite policy, exactly the opposite results?

I would say to my friends who are ostriches, why would you think that forcing American companies to leave South Africa helps integration? We are the largest, most complex integrated society in the world. American companies have had more experience integrating than any other companies in the world.

What makes you think that French companies in a country which is basically all white, German companies in a country which is all white, are going to have a higher level of experience?

Why would you think that Japanese companies are going to be more systematically prointegration than American companies?

Why would you think that the Afrikaners, that is the Dutch-speaking South African whites who are going to buy those American factories are going to be in any sense upset if we leave? Are they not more likely in fact to be very happy at the sudden windfall profits of buying factories at a fire sale and are they not going to be glad to have Japanese and German and French and Australian companies move in, who have no interest in appeasing any domestic pressures for an integrated South Africa?

So the first point I want to drive at is that we have four great challenges to America in the last 20th century: the challenge of dealing with the cocaine trade, where we are failing; the challenge of dealing with terrorism, where we are failing; the challenge of dealing with the problem of Leninism in the Soviet Union and particularly in Nicaragua and Cuba where we are failing, and the problem of how do we effectively help countries move and move decisively from dictatorship to democracy, when the dictatorship is not anti-American and is not committed to our destruction?

I want to draw a distinction between Cuba and Nicaragua which are dictatorships actively allied with the Soviet Union trying to destroy America and the kind of countries that our left wing ostrich friends love to focus on. Where do you find ostriches really focusing their moral energy? They are upset about South Korea, not North Korea. They are upset about the Philippines, not particularly about North Vietnam. They are upset about problems in El Salvador, not problems in Nicaragua.

They are upset about South Africa, not about Afghanistan.

So where is the moral pressure of the ostrich left in American life? It is systematically on those countries which happen to not be against the United States. If you want to see a left wing cause picketing against dictatorship, the odds are overwhelming that the country they will be mad about happens to be passively favorable to the survival of the United States. The odds are overwhelming that they will not be upset about a country which is already part of the Soviet empire.

□ 1350

Let us carry this a stage further. How successful have ostrich policies of capriciously getting America involved in destabilizing countries worked? How successful have the sanctions of the past been?

Let me quote from Abba Eban because I think it is important to recognize that in fact the ostriches have failed. This is Eban in his new book entitled "The New Diplomacy," where he talks about the Carter policies and suggests, and I quote from page 68 again: "The speed and vigor with which Carter supported the tide of change obscured an essential question. Was any regime in the world so oppressive that it was incapable of becoming more so? The dilemma was well illustrated in Iran and Nicaragua. When the United States weakened a pro-Western dictatorship, the end result was not a pro-Western democracy but an anti-Western despotism. The Ayatollah Khomeini was no improvement on the Shah. This tends to support the view that the United States should determine its relations with other nations in accordance with their contribution to stability rather than by reference to their domestic conduct."

Notice this is the Foreign Minister, former Foreign Minister of Israel saying flatly that when the United States gets involved in a country like Iran without having thought it through, the most likely result is a government which is more anti-Ameri-

can, more vicious in terms of oppressing its own people, and less willing to move toward freedom.

Let me in that sense carry you back for a moment to today's Washington Times in which they talk a little bit about terrorism. What was the net result of terrorism as it relates to Iran and the so-called reform of Iran? There was a 39 percent increase during 1984 in state-sponsored acts of terrorism, a rise from 70 to 94.

Under Secretary of Defense Fred C. Ikle cited Iran and Libya as responsible for all but five of the acts of terrorism. In other words, 89 of the 94 acts of terrorism in 1984, 89 of the 94 were caused by either Iran or by Libya.

They are in effect not acts of terrorism. They are a form of warfare which Iran and Libya have invented which allows them to kill us while we do nothing.

In that setting let me suggest to you that the end result of the ostrich-like policies of urging the Shah to be decent without providing the support, the mechanisms, the time to do it, led to a situation in which Iran is now governed by a country which is systematically supporting the killing of people.

As the article said in today's Washington Times:

> BEIRUT, LEBANON.—The terrorist group Islamic Jihad sent a Beirut newspaper pictures of six abducted Westerners, including four Americans, and issued "for the last time" conditions for their release.
>
> Hours earlier and apparently unrelated, eight gunmen kidnapped a senior Irish U.N. official as he was being driven to work in Beirut's Moslem sector.

Now, in that sense I think the American people need to stop and say to themselves we really live in a world in which two governments, Iran and Libya, are systematically killing Westerners and we are doing nothing about it because we have no sophisticated doctrine, no way of effectively dealing with state terrorism and in fact our allies do not even understand the problem.

France, for example, a country which is broadly allied with us, a country which is democratic, a country which is against terrorism, has rejected 120 extradition requests from Italy. And the Italians claim that France currently gives sanctuary to 117 Italian terrorists. In other words, the French Government is saying to Italian terrorists, "I don't object to you living in France as long as all your terrorism is in Italy."

Now what does that end up doing? It ends up with countries that are basically Western, that are basically democratic, because we have no official definition of terrorism as an act of war, randomly allowing people to cross the border as a tourist, set off a bomb, kill policemen, and then run back into this case France and have the French, who are our allies, say to the Italians, who are our allies, "No, we won't help you," even though they are both in the Common Market.

The problem of state terrorism leads directly into the problem of the Soviet Union and Cuba. Mr. Ikle is quoted as saying,

> The governments of the Soviet Union, Cuba, and Nicaragua have also supported terrorism, but have been conscious of the benefit of concealing their involvement so as to mislead Western opinion and to forestall a response by the democracies.

In other words, if you are dealing with ostriches, ostriches will cheerfully ignore the reality of what is happening, and the reality of what is at stake. And the ostriches will get involved in saying, "Gosh, that is not really, that is only a random terrorist," even when we can prove systematically that the terrorists are trained by Nicaraguans or Cubans or by the Soviets or when we can prove that there is a systematic process of providing arms and equipment.

We see this happening today in a success story. In El Salvador this radio report was picked up from the secret Communist radio station in Morazon Department and I want to read. This is a radio report which says as follows:

> After the elections, the San Jorge mayor, who is a Christian Democratic Party member, was captured by our forces. We wanted to inform him that we would not allow the installation of municipal authorities, and, therefore, he should abstain from taking office. After warning him, we released him. A few days later, this person took office. For this reason, our forces then captured him again. As he was being led off to zones under our control, this mayor attempted to flee; that prompted an incident in which the mayor was killed.

He goes on to say, and I quote:

> On May 11 our forces captured the (mayor of Checapan) in Usulutan Department, and we destroyed the municipal building of (San Jose La Fuente) in La Union Department, thus raising to over 35 the number of municipal buildings we have destroyed in the country's eastern sector.

In other words, what the radio report of the Communist guerrilla radio station in El Salvador said was that they have now adopted a policy of systematically destroying city halls and kidnaping and killing local mayors.

Why have they done that? They have done that because El Salvador is the one place in the modern world in the last 10 years where we can prove systematically that the American involvement in that country has worked by providing foreign aid directly to the Government of El Salvador, by providing military aid to the Government of El Salvador, by helping train the El Salvadoran police, and we are in fact beginning to improve El Salvador as a democratic country; we are providing it with both bread and guns so that the country is now able to move into a democratic system. And the result is that in El Salvador the Communist guerrillas who 8 months or a year ago were able to move as a military force are being reduced back to terrorism. They are now only able to kill local government officials. They are no longer able to seize a town and hold it.

El Salvador in fact is a great success story, such a great success story that the New York Times, not an institution which normally focuses on American successes, has today a page one story entitled "As Duarte Begins a Visit to the U.S., Optimism Returns to El Salvador."

The article goes on by James LeMoyne, and I quote:

> For the first time in five years of conflict, many Salvadorans and foreigners here are beginning to voice a cautious assessment that El Salvador may have halted its slide into a worsening civil war and that a degree of recovery is now possible. Whether the speaker is a Government official, a Western diplomat, a businessman, an academic or a refugee worker, the judgment that things may be getting better rather than worse is always framed with strong caveats and a recognition that recovery will be long and difficult. But given El Salvador's recent history, the appearance of even guarded optimism is a new development.

That is from the New York Times. What is it saying? It is saying that when the United States, and this happened to be a Reagan administration policy, bitterly opposed by leftwing ostriches, all of whom said it failed, we can find quote after quote after quote where leftwing ostriches in this body got up and said, "you can't save El Salvador, you can't establish democracy, you can't reform the army, you will never get the job done."

And the Reagan administration and the realists said, "If we are slow and steady and calm, if we provide military aid to defeat communist guerrillas, if we provide police training and aid to defeat the terrorists, if we provide economic aid to rebuild a war-torn country, we can save El Salvador for freedom, and, by the way, in addition, if we put pressure on Nicaragua, which is the source of the weapons, and the source of the command and the control for the guerrillas."

□ 1400

The thing is, the Reagan administration turned out to be right. The Reagan administration is winning a great victory for freedom in El Salvador.

It is in many ways like Truman's commitment to Greece and Turkey in 1947. We are saving a country from the Soviet empire. But let us carry it a stage further; let us look in more detail for a moment at El Salvador, because the motto relates directly to South Africa.

Georgie Anne Geyer, in today's Washington Times, in a column entitled "Duarte's Political Miracle." And I quote:

El Salvador is working. Christian Democrat President Jose Napoleon Duarte has taken hold of the situation. The military is seriously reforming itself and the Marxist guerrilla left in desperation has returned to a prolonged war strategy. As impossible as that might have seemed even 6 months ago, that is the situation today. Everyone now, including the army, agrees that the key is the canny president who won a majority in the latest elections this March. Mr. Duarte's peculiar brand of gradual but persistent change has turned things around. He has effectively separated the military from the death squads of the right, regained a great deal of international respect for his Christian Democrat reformist government and replaced the Marxism of the guerrillas with his party's reformist Christian ideology. In short, he has effectively satisfied the political needs and yearnings for dignity of the long suffering Salvadoran people.

Now the next paragraph is really important. It relates directly to what we have to do in South Africa and relates to what I would say is the realistic approach to reforming the world as opposed to the ostrich approach and having temper tantrums which make America feel good but leaves the rest of the world worse off.

Moving step by step but with the dogged determination that characterizes him, he at times has quietly pushed through what seemed to be but turned out not to be cautious reforms. For instance, Mr. Duarte changed the arrest procedures so that all armed men must be in uniform, must identify their arrest to the Red Cross and to the families involved. Amazingly, this has had rapid effect, particularly in cutting back the sadistic death squads of the wealthy old right. In 1980, for instance, political violence from all sources, right and left, amounted to 550 deaths a month. In the last 6 months of 1984 deaths averaged 44 a month, while in the first 2½ months of 1985 there were 85 deaths in all. Of those, 61 were attributable to the left, 16 were mysteries, and the rest of the right. These figures from the American Embassy were corroborated closely by the Catholic Church's figures.

Now, notice what we are suggesting here. According to Georgie Anne Geyer's figures, so far in 1985, 61 people were killed by the left in El Salvador, only 8 were killed by the right. So the left is now responsible for approximately 8 times as many deaths as the right. Where are the ostriches of the left in America who 2 years ago, 3 years ago were screaming loudly about right wing death squads? Where is the praise for President Reagan and President Duarte who have successfully begun to win the fight for democracy? Where is the anger directed at the left in El Salvador which is now killing people viciously because it can no longer stay in the field as a military movement?

The ostriches now turn away and say, let's not talk about El Salvador, let's talk about South Africa, because the left which can no longer explain El Salvador where after all democracy is working, the left in America which can no longer look at death by the left in El Salvador, now has found a new ground for its experiment, a new place for its temper tantrums, it now wants to focus on South Africa, and the very people who were wrong 3 years ago about their prescription for El Salvador and therefore do not want to come and talk about it, are wrong now about their prescription for South Africa. Not that apartheid is good, apartheid is horrible. Not that we should be passive, we should be active. We should look at the kinds of activities that are working in El Salvador. Georgie Anne Geyer goes on to focus on the left:

These changes have led directly to the new tactics of the Marxist guerrilla left. The guerrillas of the Faribundo Marti liberation front now have turned from direct unit confrontations to sabotage, urban assassination and destructive of elected mayors and city halls. They have been responsible in the last month for burning 32 city halls and kidnaping 10 mayors, one of whom is known to have been killed. This is of course a way to try to sabotage the restructuring of the country by the Christian Democrats, but it appears to be a desperate move. The sabotage of the guerrillas are multiplying, Father Roberto Amilcar Torruella, Director of Communications for the Roman Catholic Archdiocese here told me "it would seem to be because they are losing power. Before, they were on the offensive with spectacular hits. Now, they are not doing that, and the army is on the offensive. The extreme right has also lost prestige."

Now what is happening here? Because the United States was willing to be involved, we did not withdraw from El Salvador, we did not embargo El Salvador, we did not try to punish El Salvador into reform, we systematically offered money and training and support and counsel and guidance, and we now have in El Salvador a country which is dramatically freer, dramatically safer, in which the Communist guerrillas of the left are reduced to vicious terrorist sabotage and killings because they can no longer stay in the field.

One example, which is peculiarly ironic, and I quote this because I think it is something that every American should focus on as an example of how leftwing ostriches cripple the United States, Geyer says, speaking of Duarte:

The next dramatic thing that Mr. Duarte will do when he is in the United States this spring to give the commencement address at the University of Notre Dame, is to announce a highest level task force of investigators trained in the most sophisticated manner by the FBI in Puerto Rico. They are going to take the death squads head on.

Now, the reason that that is fascinating is that in the 1970's, in reaction to the leftwing interpretation of Vietnam, which was that it was all America's fault and that America was a vicious country, the left in this Congress made it illegal for the United States to train other police forces. The theory was that we would train them in the Gestapo tactics that would make them behave in fact the way the Soviets do behave.

Now, as all of you know, there is an enormous pressure in America to try to develop a positive approach to police work. We are adamant in trying to find ways to end police brutality, we try to have all sorts of legal protections for the person who is accused; we go to elaborate lengths to tell people of their rights, to make sure they have lawyers. What struck this gentleman, and I think it tells you a lot about the underlying pathology of ostrichism: If you seriously wanted to improve the quality of police work in the Third World you would want more people from the Third World trained by American policemen.

If you really wanted to have a fair and decent police force, an investigative force in Chile or South Africa or in El Salvador, you would want to have policemen who have ties with the United States, who have been to the FBI Academy, who have been trained and have friends among the FBI; you would want them to be more like us, to learn to be more like us, because if they do not learn to be more like us, how are they going to learn to be effective policemen? Are we going to learn from the Soviets? Are they going to invent it on their own? Now what is interesting, their fear in El Salvador, while we are beginning to get control of the death squads, we are beginning to establish justice, Georgie Anne Geyer specifically refers to the fact that the investigators were trained in the most sophisticated methods by the FBI in Puerto Rico; that, in fact, as I think Georgie Anne Geyer well understands, she has been one of the people who is helping us develop the concept of ostrichism because she reflects reality, she is trying to cope with the world as it really is. And she recognizes that having America involved intimately, having America actually try to move toward reform is the way in fact in which we can lead to a more democratic and a safer and a more prosperous world.

It is interesting in that sense, when you look at the closing paragraph here, and I quote: "Yet the long way that El Salvador has come in only the last year is truly extraordinary." Would it not be nice if we could look back at the ostrich left's efforts at reform in Iran and find an Iran there was more pro-American, more open, more modern, more democratic, more decent? But we cannot. Would it not be nice if we could look at the ostrich left attempt to change Nicaragua and to find a Nicaragua that was truly democratic, truly open, truly pro-American? But we cannot.

□ 1410

The reason is that the underlying model of how America behaves and how the world really is, is very differ-

ent from the way ostriches think and how ostriches look at the world.

There are four places where I think ostriches have a problem. First of all, in dealing with the drug trade, the cocaine dealers, with the understanding that that is now such a big industry and such an elaborate and complicated industry that it is going to take a major American effort at every level to break its back and to end the cocaine trade that is threatening to undermine Colombia, Peru, Bolivia, and the United States.

Second, in recognizing that terrorism is a systematic effort to wage war on Western democracies. The terrorism is a subtle form of warfare. It is not something different; you do not have war over here and terrorism over there. It is part of the same continuum. We in the Western democracies are going to have to invent the new language, the new executive branch systems, the new news media understanding, and the new legislative approaches that will allow us to deal directly and effectively with terrorists.

Third, the ostriches must come to grips with the reality of Leninism, the reality of the Soviet Union, and in particular the reality of Cuba and Nicaragua as Leninist states allied to the Soviet Union.

It is fascinating, when you look at El Salvador, at the effort to improve El Salvador, to then go back and ask, "Now where do the Communists in El Salvador get their help?" What you find is, in effect, Nicaragua is waging war against El Salvador. In effect Nicaragua is engaged right now in an act of warfare against El Salvador.

Let me quote from an official document, written by the House of Representatives, May 13, 1983, a report by the Intelligence Committee of the House, a committee dominated by Democrats, a committee in which the Democratic leadership has absolute control of the report, and this is what the report itself says on page 2:

> The success of the insurgents in El Salvador has not been matched by political victories. It is not popular support that sustains the insurgents. As will be discussed later, this insurgency depends for its lifeblood; arms, ammunition, financing, logistics and command and control facilities, upon outside assistance from Nicaragua and Cuba.
>
> This Nicaraguan-Cuban contribution to the Salvadoran insurgency is longstanding. It began shortly after the overthrow of Somoza in July 1979. It has provided by land, sea and air the great bulk of the military equipment and support received by the insurgents.

In other words, according to the official House Intelligence Committee report of May 13, 1983, adopted by the Democrats on the committee as well as the Republicans, the reason there was a bloody civil war going on with Communist guerrillas in El Salvador was because immediately after the ostrich left had destabilized the dictatorship in Nicaragua, the new Nicaraguan Communist government had formed an alliance with the Cubans and the Soviets, so that they could then send equipment and aid and training to the guerrillas in El Salvador.

In effect, Nicaragua and Cuba were waging war on El Salvador. But by calling that war "guerrilla," we in the United States in our news media, in our Government, in the Congress, we do not think that is a war.

Let me ask you: If there was a group that came across from Canada or Mexico, and it came into let us say Texas from Mexico, and it kidnaped 10 mayors and it blew up 35 city halls, would we say "Gosh, let's take care of them only when they're in Texas," or would we say to the Mexican Government, "If you don't get rid of those guerrillas, we are going to send the Army in."

If you have any doubt what we would do, let me suggest you go back and look at 1915 and 1916 when in fact Pancho Villa invaded Texas and New Mexico and the U.S. Army under John J. Pershing went into Mexico.

Now, how far fetched is that? Well, when you realize that Nicaragua is closer to Miami than Miami is to Washington, DC. When you realize that Nicaragua says flatly and explicitly it is engaged in guerrillas war in Honduras, in Guatemala, in El Salvador; when you realize that those countries lead inevitably to Mexico, at what point do we start recognizing that warfare fought by guerrillas is still warfare?

Nicaragua is at war with all of Central America. If you doubt that, I will put more evidence in the RECORD in a moment, but the problem for the ostrich left is that they cannot confront it.

Notice again in this 1983 report adopted by the House, including the Democrats, "More ominous is that the Sandinistas have stepped up their support for insurgents in Honduras."

Again, notice the fancy language we have adopted in the West. "Sandinistas have stepped up their support for insurgents in Honduras." What does that mean in plain English? It means Communists in Nicaragua are waging war in alliance with people in Honduras against the country of Honduras. That is all it means.

If this report were to say that the Communists in Nicaragua sent 20 tanks into Honduras, we would say, "Oh, that's a war." But as long as they send 20 foot soldiers, carrying satchel charges to blow up city hall, that does not count as a war. Who is kidding who?

The Communists have invented a form of warfare we are losing, and we cannot even describe it.

Now, in that setting then, let me come to South Africa. We are in the same problem in South Africa we are in in El Salvador; the same problem we were in in Nicaragua originally, the same problem we are in in Iran.

The Shah of Iran was a dictator, and he had secret police, and we should have tried to reform Iran, but as we tried to reform Iran we failed. We failed in a way which helped the Soviet Union, we failed in a way which led to thousands of people being killed, we failed in a way which led to Iran becoming a bitterly anti-American government which today sponsors terrorists who right this minute have four Americans held captive and who are threatening to kill them.

We failed. What lesson can we learn from that failure and apply to South Africa? We can learn first the lesson that if we are going to try to reform a country, we had better be slow and we had better be positive.

My goal is not simply to eliminate apartheid. I do not want to replace a white dictatorship with a black dictatorship, for example. I do not want to replace a pro-Western dictatorship with a pro-Communist dictatorship. I am not willing to accept the idea that any change in South Africa is automatically good.

Remember, if you will, back on page 68, what Abba Eban said. He said:

> The speed and vigor with which Carter supported the tide of change obscured an essential question: Was any regime in the world so oppressive that it was incapable of becoming more so?

Now let us apply—and I think that the Carter administration was the only administration we have had in modern times which was committed, as a matter of policy, to a leftwing ostrich foreign policy, a foreign policy which failed so totally that there are no serious Democrats who would defend it today.

Let us look at that policy and apply it to our friends on the left and their version of how to deal with South Africa. What do they want to do to South Africa? They want to first of all, on the extreme form, cut off all American involvement in South Africa. The extreme leftwing ostrich position on South Africa is: Let's sell everything.

What would the result be? The result would be we would liquidate our holdings; companies, ownership in land. Who would get those holdings? Would people get those holdings who are prointegration? No. Not necessarily. Many of those holdings would be bought by white South Africans who are perfectly happy to buy up at 10 or 15 percent of value American holdings. Would they be more likely to free up their country? No.

So what else would happen? With America gone, with the daily process of talking to Americans gone, with the manager for Ford Motor Co. gone; with the manager for Mobil Oil Co.

gone, what everyday person is going to interact with South African businessmen and tell them the virtues of democracy and the virtues of immigration and the virtues of freedom? What businessmen are there going to be there who have systematically worked with black Americans and had the experience of an integrated workplace? None.

The Germans do not have that background; the British do not have that background. The Australians do not have that background; the Japanese do not have that background. So where are they going to get this experience? Where is the white South African going to be reassured that it is possible to live in an integrated society and really have things work?

Those who are for absolute extreme disinvestment are in effect for cutting off South Africa from exactly the lessons of integration which we have learned at such great cost and which we could teach.

Let us go to a second level. There are people, sincere people, who I voted for several years ago before I really got involved in studying this problem who say, "Well, let's show that we are morally superior. Let's just punish the South African Government with a variety of specific sanctions."

□ 1420

Well, let us look at it for a second. How seriously would the South African Government take sanctions? And I really want to draw the case clearly here. If the South African Government is determined to resist Western pressure, then we have a real problem, and our problem is going to be deciding whether or not we are willing to take on the moral burden of deliberately and systematically breaking the back of the South African Government. That is not going to be easy, it is not going to be cheap, and that is a pretty heavy moral responsibility for us to take on. But if we decide to do it, we ought to do it for real. We ought to insist, we ought to say to the South African Government, "You are not going to survive as a segregationist, antiblack, white supremacist government," and we will take the steps that are necessary. And we should coordinate those steps with Japan and Australia and Europe, and we should apply those steps ruthlessly and systematically and remorselessly and should have real change. Is that what the left is proposing? Not on your life, because they know, first of all, they could never get a majority in this country for that kind of change, not at the present time. And, second, that would involve real pressure, that might well involve military action. Oh, they do not want to get involved in that, so what are they suggesting? They are suggesting that we irritate the South African Government just enough that it does what? Moves faster than it is moving because of American pressure? In fact, it is likely to move slower because of American pressure. So what are the positive things we could be doing? And this will sound, I think, shocking to some of my friends, and it is really where I have come to in thinking about South Africa for the last 3 years and in looking at the lessons of Iran and the lessons of El Salvador.

What we should be doing is a much more active engagement than the Reagan administration. What we should be doing is saying that we are going to have a lot more scholarships so people can go to college and learn how to be leaders, we are gong to have a lot more encouragement of American investment so we get more American companies in South Africa, to have more local black labor unions, to have more people working in an integrated workplace, to have more Americans sitting down there, going to the chamber of commerce meetings, going to breakfast, saying to the South Africans, "You really can integrate and be free. It is possible to have a multiracial society that is democratic." We should be increasing our engagement in our involvement with the South Africans, not decreasing it. And we should also be saying to them, "You have to understand that apartheid is going to end, that the civilized world will not tolerate it and that you are simply establishing a laboratory for Communist terrorism and for the rise of extremist black movements inside South Africa who will end up imposing a black dictatorship along the lines of Ethiopia, a Marxist-Leninist pro-Soviet dictatorship."

Now, the problem is that means we are saying as Americans that we are going to be involved in somebody else's country. But the fact is, we now live in a world where we are all involved in each other's countries, we now live in a world where it is routine for American Congressmen to show up everywhere and it is routine for other countries' leaders to show up here. We live in a world in which those people who have walked into this building today have walked past concrete blocks put up in the middle of the road because we fear terrorists in our own country. Now, if that is reality, then we need to start to come to grips with it.

What is the American position going to be over the next 10 years if we see a steady increase in left wing black activist movements in South Africa that are clearly Leninist, that are tied to the Soviet Union, that use violence and that want to impose a pro-Soviet dictatorship on South Africa? I think our position should be that we are opposed, that we will actively help the forces that want democracy.

What then should our position be across the planet? What should it be in a complicated situation like South Korea, which is a dictatorship but pro-American? I think our position should be that we systematically and methodically encourage the development of a democracy, that we systematically encourage freedom of the press, freedom of travel, that we encourage Americans to go to pro-American dictatorships and to visit them, that we encourage church groups, that we encourage others to go, but not to go just to break the back of the dictatorship.

To replace South Korea, which is a pro-American dictatorship, with the North Korean Communist dictatorship would be a setback for human freedom in Korea, would be a threat to Japan and would be a major defeat for the survival of America in a world in which the Soviets are a real threat. To replace the current South African Government, which is a bad government, with a pro-Soviet, Leninist dictatorship would be worse, it would be worse for the people of South Africa, it would be worse for the West, it would be worse for the survival of the United States.

So the real challenge to the ostrich left of America is not how to prove you are morally courageous. Fine, do you want to pass a resolution that condemns South Africa for being a racist society? We can condemn them. But then what? Do you want to get arrested in front of their Embassy, under a procedure, by the way, in which you never really go to jail, so it is, in effect, a moving press conference? Fine. But then what? How do we then move to the next stage? And I think that is where El Salvador is so encouraging. In El Salvador we had a vicious right-wing death squad problem, and we had Communist guerrillas. And the United States went in systematically and methodically and slowly and we helped create a profreedom, pro-American, proeconomic growth, prodemocracy centrist government, which is today establishing conditions that will have a pro-American El Salvador in which human beings can live in decency and in dignity and have a better future.

The challenge to all of us is how to do two things simultaneously, how to defeat the problems of cocaine trade and terrorism and Leninist intervention, including the liberal efforts to fight the liberal wars in your neighbors, and, second, how to get governments to change when they are determined not to. And let us look at the other case, which our friends on the left will come back and say, "Well, if GINGRICH is opposed to trade sanctions in South Africa, why would he favor trade sanctions for Cuba or for Nicaragua?" And let me explain that for just a moment.

The current Communist dictatorship of Nicaragua is an unacceptable government to the United States. We

should make that clear and we should outline why in our national interest we will not accept that government, why in the interest of our survival we will not tolerate it. And we should inform that government, first, that we will not tolerate a government which is currently waging war on three countries, second, that we will not tolerate a government that is systematically allied with the Soviet Union, and, third, and in our hemisphere, in the Western Hemisphere, in a position to endanger the Panama Canal and in a position to endanger some 70 percent of our key shipping to NATO and to the Middle East coming out of Texas through the Caribbean, and, fourth, that we will not tolerate a government which only achieved power by going to the Organization of American States and promising it would hold free elections and has then established a dictatorship.

Now, people will say: Are you saying the United States has the right to interfere in other countries?

Well, in the absolute sense, yes, under international law, if we think a country is threatening our survival we do have that right. Under international law, if we think a country is waging war on one of our allies, we have the right to help our allies.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. GINGRICH. Certainly.

Mr. CONYERS. To what provision of international law is the gentleman referring?

Mr. GINGRICH. The U.N. charter, the right of self-defense.

Mr. CONYERS. You say that Nicaragua so now threatens our defense that we now have the right to intervene in their government?

Mr. GINGRICH. I state to the gentleman unequivocably that the president of El Salvador has said flatly Nicaragua is a threat to the survival of his government, El Salvador is an ally of the United States and, therefore, in the interest of our national security, under the U.N. Charter provision for mutual response to aggression, unless you are willing to say——

Mr. CONYERS. Does the gentleman have some other citations other than the President's allegations which are in wide dispute, not only in the Congress but in America and in the world and in the United Nations?

Mr. GINGRICH. Yes; let me cite to the very distinguished gentleman the May 13, 1983, report of the House Intelligence Committee, authored by Mr. BOLAND, who is a distinguished Member of your party, who says——

Mr. CONYERS. Is the gentleman telling me that he said that we have the right to intervene internationally and militarily into Nicaragua? I am sure he did not say that.

Mr. GINGRICH. This report said unequivocably that the Nicaraguan-Cuban contribution to the guerrilla war in El Salvador is clear, it is real, and it is a deliberate systematic effort to destroy the Government of El Salvador. This report is very clear on that.

Mr. CONYERS. In other words, the gentleman is extrapolating now that we have a right under international——

Mr. GINGRICH. No.

Mr. CONYERS. I wish the gentleman would be just a little more careful in his grandiose statements.

Mr. GINGRICH. Let me be very precise.

Mr. CONYERS. I am willing to concede that there is a problem, but to stand in the well of the House, in a sober fashion, on an afternoon, and tell us that we now have the right to invade Nicaragua under international law is a little bit strong for this Member at this time of day. Now, about 8 o'clock tonight, I will buy it. But at 2:30 in the afternoon I ask my colleague from Georgia to just please be a little tempered in his statements.

Mr. GINGRICH. If I may say to my good friend—I do not want to cite authority, but as a professor of European history who has studied this stuff for a long time, let me assure the gentleman that if you are willing to define—and this may be a point which we want to discuss for a second—if you are willing to define the active training, supplying, coordination and support of guerrilla warfare as an attack on a neighbor, that is, if Nicaragua's support, active support for guerrilla warfare in El Salvador is the legal equivalent of an act of war, then there is absolutely no question that both under the Organization of American States treaty and under the U.N. Charter, there is no question, I say to the gentleman—and I will be glad to get the citations for him from people who are not in the Reagan administration—that, once you make that determination——

Mr. CONYERS. Will it be the Heritage Foundation?

Mr. GINGRICH. No; I would be glad to say to the gentleman that, as defined—I will bring people who are at Harvard and Yale, if you like—any international law scholar will tell you that legally, under those two charters, the Organization of American States charter for the Western Hemisphere and the United Nations Charter—frankly, I share the gentleman's frustration.

□ 1430

I think this administration would have been far better off to have come to this country and said flatly: "We are defining guerrilla warfare as war; we are serving notice to Nicaragua that if you destroy your neighbors' economies; if you support forces that are kidnaping mayors; if you support forces that are destroying local city halls, that we are going to consider that an act of war, and that we are going to, under our own treaty obligations, intervene against you decisively, and we will not tolerate your destroying our allies while we do nothing.

Mr. CONYERS. May I suggest one reason why the President did not do that?

Mr. GINGRICH. Sure.

Mr. CONYERS. It will not wash.

Mr. GINGRICH. Why not?

Mr. CONYERS. It is not legal.

Mr. GINGRICH. Of course it is legal.

Mr. CONYERS. I know you have got credentials now, and they are not involved. As a professor of history, as a writer, and a theoretical analyzer of foreign policy, and you have been excellent on this subject, in terms of your energy from the day you hit the Congress, I am not in a position; I have only been a Member here for a couple of decades and gone through several wars, some of them illegal; some of them covert.

The whole point is that there are very few people who do not qualify on some point of expertise. So our credentials will have to be set aside, more or less.

Mr. GINGRICH. I am perfectly happy to do that.

Mr. CONYERS. I will set my meager ones aside if you will set your very larger ones aside.

Mr. GINGRICH. You clearly have been a participant in this Congress through a great deal of the history that I studied, so it is a great pleasure to have you bring personal witness.

Would you explain to me under what provision is it illegal, once you have, notice the way I have set this up now, once you agree that Nicaragua is actively supporting guerrilla warfare in El Salvador. I mean, if the case is a question of fact, I would agree with you; if Nicaragua just wants to be a Communist dictatorship, we have no legal grounds to intervene. That would be an act of aggression.

But once Nicaragua starts to mug its neighbor, I would say to my friend, then tell me under what rule of law we do not have the right to intervene decisively to stop that?

Mr. CONYERS. I would be glad to make that announcement. I thought no one would ever ask me today.

There is no such law. That is why nobody cites one, not even yourself. There is no law that exists. We cannot intervene under those circumstances. But the fact circumstances are not accurate to begin with.

Mr. GINGRICH. Why not? Do you not agree that Nicaragua is systematically——

Mr. CONYERS. Mugging its neighbor? No; I have not. If I did, I would come here with even greater sympathy

in my heart for the gentleman's position on this matter.

Mr. GINGRICH. So you disagree with the Intelligence Committee's report?

Mr. CONYERS. You have already distorted Mr. BOLAND's comments in one respect; I certainly do not want to assume that you and I agree on what the Intelligence Committee said. I have a lot of good friends on that committee, as does my colleague.

Mr. GINGRICH. Let me read to you then, because I do not want to distort anything. Let me read you just a couple of sentences and I want you to respond.

Mr. CONYERS. Let me read it and then at our earliest convenience we will continue the discussion.

Mr. GINGRICH. That is very fair and I thank the gentleman.

Mr. CONYERS. I thank the gentleman for allowing me to interject.

Mr. GINGRICH. I wish you would, if you get a chance, look at the Organization of American States, I am not sure which article, and then look at the U.S. Charter, both of which contain specific provisions for nations and their allies to respond to aggression. The case I am making here this afternoon that makes, I think, Nicaragua and Cuba different, is I am making the specific assertion which I think is long overdue in this country, that they are systematically engaged in aggression and the correct term for that is an act of war. That they are waging war on El Salvador, Guatemala, and Honduras, and that American policy should occur in the context of a deliberate Communist war in Central America, and as long as we muck it up and have it confusing and murky, I agree with the gentleman. I think you have helped clarify today, and I would like to arrange, at your convenience, maybe next week, for a special order that we might share to continue this dialog.

Mr. CONYERS. I appreciate this immensely. Does the gentleman recommend that ultimately that we declare war on Nicaragua?

Mr. GINGRICH. I would say to my distinguished friend that if, if at the end of helping the freedom fighters; if at the end of doing everything we can to weaken the Government of Nicaragua; if that Government is sitting there, and it is determined to wage war on its neighbors, and we have absolute proof of that point, that it has troops fighting in Guatemala, Honduras, and El Salvador, I would then say to the gentleman: What would you suggest?

Mr. CONYERS. Well, if the matter is as urgent as you suggest, I must say that you are far more restrained than I originally thought as I rushed to this microphone.

Mr. GINGRICH. I think we are a great Nation.

Mr. CONYERS. I see that you are holding yourself back from the ultimate natural, logical consequence of your argument.

Mr. GINGRICH. If the gentleman had heard the earlier part of my talk, as I was quoting from Abba Eban, the former Israeli Foreign Minister, he would know that one of my points is that a great power, if we are going to move toward an integrated, free South Africa, which I share the gentleman's passion for; if we are going to move toward a free Nicaragua; if we are going to move over time on the Philippines and South Vietnam, my central point was, we have to learn to be patient and methodical and to use our force in a systematic manner that people across the planet come to respect.

So I would say to the gentleman, yes, I think this Government should say to the Nicaraguan Communists, you have a problem. You are not going to make it, given your current behavior, and we are going to continue to raise the ante fairly rapidly over the next 2 or 3 years until you are gone, unless you change your behavior.

Mr. CONYERS. Would the gentleman reserve any recommendation of a declaration of war until we have had our discussion?

Mr. GINGRICH. Oh, I do not think we need to declare war for a long time.

Mr. CONYERS. On that note, I very happily and optimistically withdraw from the discussion.

Mr. GINGRICH. Let me ask you a question for a second because I have forgotten and I should know this: What year did you come here?

Mr. CONYERS. The age of man, I think the records may have become lost and destroyed; there is some question about it.

Mr. GINGRICH. The gentleman has so much less gray hair than I do that it is very discouraging for him to point out to this audience whatever length he has been here and to make comments like that.

Mr. CONYERS. The gentleman is very kind. I thank the gentleman.

Mr. GINGRICH. I am a mere junior. But my impression was that, were you here during the last phase of the Vietnam war?

Mr. CONYERS. I believe that I was.

Mr. GINGRICH. The reason I am asking, seriously, is because there is an argument which Harry Summers makes in his book on Vietnam. That if we were going to have done that, we would have been far wiser to have done what the gentleman says. That had we declared war in Vietnam; had we been explicit about it.

Mr. CONYERS. To have done what you would have recommended under those circumstances.

Mr. GINGRICH. Well, if you are going to be involved. I mean, the other option which I think is equally discussable would have been to have pulled out totally. To just say that we are not going to be there.

But to have been halfway there, that is, to have been there and not to lose 58,000 Americans and to devastate the countryside, and then not have won was the worst of all worlds. I guess I am saying to my distinguished colleague, and I would say also to the administration is: There is no future in this county in developing in Central America a slow-motion Bay of Pigs. We should either say we are going to accommodate the Nicaraguans no matter what they do, and allow them to get away with everything they are doing, or we should act much more decisively and much more explicitly.

I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. I thank the gentleman for yielding.

I was listening with interest to your description of the Nicaraguan behavior in the region, and I was interested specifically in the question Mr. CONYERS asked about the authority that you cite that would describe the current conditions under which we, as a country, would have the right to invade the country of Nicaragua for the purpose of replacing their government.

The facts, of course, are in dispute about what is happening in the region; you believe perhaps one set of facts and others see a different set of facts. But what is the authority that would suggest to us that we now, given a relatively common set of facts, have the right to invade the country of Nicaragua?

Mr. GINGRICH. Now, I did not say anything, the gentleman from Michigan, I think, was talking about invasion; I have not at any point today, talked about using American troops and frankly do not think they are necessary.

□ 1440

What I have said is that if Nicaragua wages war on its neighbors, and we could discuss some day what is the evidence and whether or not that is true, but if they are waging war on Honduras, in Guatemala, in El Salvador, which I believe they are, that we in the West have to define an effective response which prevents them from successfully doing that, and that we currently have no successful system for doing that.

My whole point earlier in my speech was to say that we need a whole new set of ideas and language and approach, but we first have to decide, and this is why I would like to get the gentleman's reaction, frankly, if I could convince you that Nicaragua was systematically waging war using guerrillas, would you then agree that the United States clearly, under the U.N

Charter, and the charter of the Organization of American States, has the right to work with its allies so that they can actively protect themselves against aggression, including going to the source of the aggression?

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, did the distinguished gentleman from North Dakota wish me to yield to him for some further comments?

Mr. DORGAN of North Dakota. Yes; I would appreciate the gentleman yielding.

The discussion that was just going on in the well that the gentleman from Texas was listening to and that I was listening to was interesting. It was discussing our role in Central America and the conditions under which we might or might not get involved. I say that in some respect there is a distinction without great difference in deciding to commit American troops to go fight in Nicaragua or deciding to hire some other troops with American money to overthrow the Government of Nicaragua.

But let me say this: I have been to that region, as have many other Members of the House, and there is a claim that Nicaragua exports revolution. There is some small evidence of that.

There are other claims that the United States imports revolution into Nicaragua, and there is some evidence of that.

There are claims and counterclaims going on. I do not know to what extent there is gun running between Nicaragua and El Salvador. I have tried to find that out. There are a lot of allegations about it but not a lot of hard evidence. If I believe there is some gunrunning going back and forth, obviously I want to do what I can to stop it. But I was down in the Gulf of Fonseca in the little horseshoe between Honduras and El Salvador and Nicaragua and a navy colonel from the Honduran Navy was describing the fast boats that they have to patrol the Gulf of Fonseca because the allegation is that there are these tons of weapons moving through the Gulf of Fonseca from Nicaragua to El Salvador.

So we took a look at these boats. We saw the machineguns. We saw how fast they were and how impressive it all was, and I asked the colonel, "How long have you been patrolling these waters in the Gulf of Fonseca in order to interdict?" It is an interdiction program for arms.

He said, "Oh, about 18 months."

I said, "What kind of arms have you interdicted so far? Could you give me a description of the cache of arms in this pipeline of arms transaction between Nicaragua and El Salvador that you have interdicted?"

He said, "Well, we have not really interdicted any arms at this point."

I said, "Now, wait a second. You tell me that the Gulf of Fonseca is a major artery by which arms are transported from Nicaragua to El Salvador. You have the fast boats in here, and you are telling me you have the best program available, but you have not found any arms yet? Does that say something to you?"

"Well," he said, "it says to me maybe we have cut off the arms shipments."

Well, maybe so; I would give them that. Maybe there were substantial arms moving and maybe the presence of these boats, and so on, have cut off the arms shipments. But I find it a little bit unusual for us to go to the region, you, myself, to go to the region and hear, for example, an Ambassador talk about what is going on, and you ask the Ambassador a question, and you say, "Well, now, we have groups that are headquartered in Honduras or Costa Rica and moving up into Nicaragua to destabilize that Government. That is moving terror in one direction. We scream when it moves in other directions, but we wink when it moves in our direction."

All I am saying that I think all of us probably start from the same premise: We do not want communism to get a foothold in Central America. We move from that premise and that goal toward a series of actions that we think would best serve our interests, the interests of the United States, and best serve the interests of the people in that region in our foreign policy.

The reason that I have been interested in this is that I fervently believe that the action by the Reagan administration in Central America is action that is completely and totally counterproductive to our interests in the region and will, in fact, move the Nicaraguans ever closer to the Soviets. I do believe that we need to be involved in Central America in a constructive role, but I have been there, and people are hungry, they need something to eat, they are sick, they need medicine, they are illiterate, they need education.

The last thing we need to do is send more guns and more bullets to 13- and 15-year-olds up on a mountain someplace so they can shoot somebody. I just believe there are better approaches to the Central American problem than this administration is pursuing, which will result in our best interest, result in oppressing the Communist movement in that region, and result in serving the best interests of the people of Central America as well.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield for just a moment?

Mr. GONZALEZ. I would be glad to yield to the gentleman from Georgia.

Mr. GINGRICH. I appreciate very much the gentleman yielding.

Mr. Speaker, let me just add that the problem we have is that communism already has a foothold in Central America. The Nicaraguan Government is clearly a Leninist government. It could hardly get much closer to the Soviets, for all practical purposes. They are building a Soviet airfield. They have Soviet advisers. They are using Soviet equipment. I am not sure they could do much more than they are already doing.

Second, interdiction is working. Earlier in my special order I cited today's New York Times, page 1. I cited a column in the Washington Times by an eminent national columnist which talked about the fact that there is less there.

But notice the problem here for a second. On the floor of this House, right there, 2 weeks ago I showed two American rifles from Vietnam that had been shipped from North Vietnam to Cuba to Nicaragua and El Salvador. They were captured in El Salvador. I showed a Bulgarian rifle round manufactured at factory No. 10. I showed a Soviet hand grenade which was part of a box of hand grenades, half of which went to Grenada from Cuba, half of which went from Cuba to Nicaragua to El Salvador and were picked up in El Salvador. I showed a North Vietnamese mortar sight, my point being this to the gentleman, and I will be glad to take the gentleman not very far from here and show him a cache of weapons which the Salvadoran army has captured. Nobody disputes them.

They got there somehow, and they did not get there by Pan American taking them as CARE packages. They came through Nicaragua. The El Salvadorans affirm it. Our own intelligence affirms it, and the only question, I would say to the gentleman, is this: We are dealing with a Nicaraguan Communist dictatorship which has said unequivocally it is allied with the Soviet Union, which has said unequivocally that it is committed to a regional war, and which is currently, at this very minute while you and I talk, waging war in Guatemala, in Honduras, and in El Salvador.

I think I can provide overwhelming proof for that. If that is true, what then are we going to do about it? My point, and I will concede it is a very tough point, my point is that as the greatest power in the Western Hemisphere, we have an obligation to our allies to protect them not just by trying to stop the Nicaraguans from destroying their country, which by the way in El Salvador so far this year has led to 10 mayors being kidnaped and 35 city halls being burned, but also to say to the Nicaraguans, "If you are

going to beat up on our friends, then we are going to come after you. You are not going to be safe in Nicaragua and have the right to go ahead and kill allies of America in three countries while we are passive."

Mr. DORGAN OF North Dakota. Mr. Speaker, if the gentleman from Texas would yield for 1 more minute, the gentleman from Texas has been someone who has spoken on this issue many times, and speaks on the floor of the House a great deal, and I appreciate his yielding to me to respond one more time and say that if the gentleman from Georgia believes that the Nicaraguan Government poses such a threat to this country and to this hemisphere, the kind of threat that has been described by, I think, some Members on his side of the aisle particularly, and some in the administration, then you ought to gas up the tanks and gas up the trucks and get moving and get down there and clear things out, if it is that kind of a threat.

□ 1450

The fact is that it is not that kind of a threat. Communism is a problem in Central America. When you say it has a foothold in Nicaragua, well, we could quibble about what the word "foothold" means. Cuba has 900 physicians in Nicaragua, and they have a couple of thousand teachers, and so on, there.

But let me say this: When we as Americans decide we have a problem in Central America and decide we need to take some action to try to respond to that problem, what we desperately need to do is move bilaterally, move in concert with other countries in that region, with the consent and acceptance of other leaders in this world. What we too often do is develop unilateral behavior.

The trade embargo is an interesting example. Just recently we decided what we are going to do. We have been hiring these armies up in the mountains. And I have seen 11-year-old kids with new American rifles up there that our CIA has paid for, wearing nice new, clean, pressed uniforms. That was, incidentally, just an American CIA initiative to fund an army. Now we are saying that what we are going to do is have a trade embargo. We did not consult anybody; we do not have other countries in the region supporting it.

In fact, about 17 of the last world leaders that our President has met with in recent months, about 17 out of 17, have not supported this country's initiatives in Central America. Why? Because I think those initiatives are initiatives that those world leaders—not Communist leaders, just other government world leaders—see as initiatives that will not really work.

What we need to do when we get involved is to do something that will work. Why a trade embargo that will not work? Why a trade embargo that is unilateral? Why one that is not supported by our allies?

Why? Because somebody downtown said: "Let's do this for a while." That is not a coordinated, thoughtful response to our responsibilities in the hemisphere and to the problems that exist in the region.

Let me say, finally, that I do not like the Sandinistas very much. I have talked to them. I find their censorship of the press to be something that is detestable to me. I am not crazy about the Sandinistas at all, but neither am I crazy about this Government's policies, as articulated by this administration, in which they believe that by following these courses of using hired armies and trade embargoes, and so on, we will eventually straighten out that problem. In my opinion, there are better ways.

I do not think that we ought to have no policy. We need a policy, but I think the current policy is wrong. We need to carve out a better policy because there is a better way.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman, and I mean that sincerely. I thank both gentlemen, because this is an issue that, as I have been trying to say for some time now—to be precise, April 1, 1980, at which time President Carter was the President—should be on the priority list for consideration. I am delighted at the participation of Members who showed up at this late hour, despite the fact that the overwhelming majority of the Members have gone out of the city on various missions, and for that reason we had no legislative business today.

Yet I feel that I have been impelled to speak loud and long, perhaps to the dislike of some, on this matter because of its prime urgency and also because of the fact that I have been addressing the House here for some time under the general title of "My advice to the Privileged Orders" of our country, in a rather weak imitation of a great and noble American, Joel Barlow, a great revolutionary figure, and a great thinker of the day, and a writer, and poet who lived under somewhat similar conditions at the time, if we can make comparisons, and spoke out with his advice to the privileged orders and of the need for change, revolutionary change.

As I see it, these issues that are here today discussed very emphatically reflect the line of thought that has been agitating the minds of our national leaders in and out of the Congress and in and out of the Presidency and evince to me a rather serious misconception, and perception, or misperception of the reality of the world, particularly that world that we share with these countries to the south of us. In light of the discussion and in pursuance of my advice to the privileged orders, I would like to point out some facts.

I have been attempting, on a 1-minute basis, to pursue in a sustained way what I call a dose of reality with respect to the situation in Nicaragua. I have pointed out where tragically we have been in gross violation of solemn treaties that we are party signatory to, and that has brought down world opinion against us. And I think the RECORD ought to show, in light of this discussion today, that the 25 nations that share the New World with us today, as reported in our newspapers today, though buried on page 23, announced a solidly passed and signed resolution of protest to the United States with reference to the recently proposed embargo by President Ronald Reagan.

The President announced that embargo on the eve of his departure to the Bonn economic summit meeting in Germany recently, and some critics interpreted that as a means of defusing the loud clamor and dissension which his trip and his announced visit to the cemetery in Germany had aroused.

But I do not like to question motives. I have always assumed that every colleague and every President that I have had the honor and privilege to work with—and that is a total of six—had honorable motives. And I want to say also by way of explanation that when the two gentleman, the gentleman from Michigan and the gentleman from Georgia, were involved in the dialog preceding my special order, they were referring to membership in this body and the length of it, and let me say that mine has now reached the point of the 24th year. I have been very privileged to serve in this very, very honorable body, the most important body of its kind in the world, one in which we cannot find any comparison. Cognizant of that high honor and privilege and grateful as I am for these processes, I am very sensitive about the things that have happened over the course of the years that have represented intrusions into this great participatory democracy in a way that I believe is contrary to all of the thinking and the basis of our Government, as reflected in the deliberations of the constitutional conventions in the late 1780's, in which by these great processes we had this magnificent result known as the U.S. Constitution.

So I have watched six Presidents. I have not hesitated to speak out when I feared that some recommendation of a President—and I am speaking now of every one of the six, from John Kennedy to Ronald Reagan—has caused me to think that it is wrong, that it is contrary to the best interests of or the greatest interests of the greatest number in America. As close, and personal, and intimate friendship as I did

have the honor of developing with John Kennedy, I did not hesitate for 1 minute to record my vote and speak in explanation of that vote in a manner that was inconsistent with his recommendations or those of his then administration, what his administration called his congressional-White House liaison assistants. It was the same with an equally dear friend and neighbor of mine, President Lyndon Johnson.

What I heard today is reminiscent of that period. And I have not hesitated, beginning with April 1, 1980, at which time certainly Ronald Reagan was not the President, to speak out because of my forebodings. And it has given me no satisfaction whatsoever to say, "Well, I told you so," because if anybody is interested in examining what I said on April 1—and I said it right here on this floor for the RECORD—they will see that I was predicting to the President that if he persisted in a unilateral course, without first seeking the recourse of our treaty obligations under the Rio Pact, as well as the Montevideo agreement, as well as the Punta del Este understanding, and as well as, more importantly, the OAS Treaty, we would soon squander the last little vestige of leverage we had for collective leadership, moral as well as real leadership in this New World.

□ 1500

Regretfully, I also said that I would give that time no more than 90 days because of the development then in El Salvador following the revolution in 1979 in Nicaragua.

Now, it pains me very much to see that the same essential parameters of judgment-making evaluations are still ruling supreme in our country; though let me say that I am afraid that the real power of decision is no longer being reached within the Halls of the Congress, and much to my regret, even outside of the Oval Office of the Presidency, we now have in place a tremendous oligarchical power that is in reality exercising the power of decision in the all-important matters of fiscal monetary policies, which incidentally are the basis for the developments about which this great conflict and dissension and discussion concerning Central America and other points in the world is really about.

We can really say that these are the basic things that have given rise to these concerns about what truly is the national interest and to what extent it is involved and to what extent it is in jeopardy.

Some of us have been pointing out in both respects for some time that the question of jeopardy and danger had long ago reared its urgly head, but it has been to no avail to speak out and bring some consequent reaction reflected either in the deliberations here or the considerations in the White House.

As I have said, I have had the privilege of working with six different Presidents. I do not use the word or the preposition "and" or "under" six Presidents, because this is a word that is being used more and more by Members of the Congress and by the general American public, giving rise to a very, very noxious concept that the Presidency for some reason or other is supreme, forgetting that the true nature of our government under the Constitution is based on a tri-partite division of powers of government, that ours, the Representative, the Congress, is article I of the Constitution. Obviously that was placed as article I for a good purpose, that the Office of the Presidency, for example, was not even contemplated during the first actual 10 years of actual existence. Nobody even wanted to conceive of that Office until the deliberations in the Constitutional Convention in Philadelphia and then when it was finally debated and the term first used was not "President" or "Presidency." It was "Chief Magistrate."

Finally the decision was made that it was necessary after the experience with the First and Second Continental Congresses and the Articles of Confederation that such an Office obviously would be necessary; but for good reason very definite powers were placed exclusively in that first branch in the Congress.

The basic premise is that each branch is coequal, independent, and separate; so this notion when we say that we worked under President so and so is noxious to our basic conscience. We work with and I think it is indispensable that insofar as possible that these branches work in conformity, that neither one nor the other arrogate to itself supra or ultra vires or transconstitutional powers.

This is what the issue is today and has been very much definitely since the so-called World War II, which incidentally we forget has not really ended. We tend to forget that there is no formal treaty of peace or agreement that would resolve definitely World War II.

What did happen was that the active shooting phase did stop with the overwhelming and total victory of the Allies and the conquest of Germany, and Italy, and its allies, but the war has not ended. We have 300,000 troops in Germany alone. We have not even begun to have a glimmer of a policy as to what we would do in negotiations with the Allies with whom we were able to defeat the totalitarian forces; so that given that, we should be very mindful that we are living in a totally different world from what our basic defense policies—and I do not call them policies because they really are not—diplomatic approaches which have failed.

We never, no nation does, resort to the military or to force, if you please, unless and until the failure of diplomacy.

I think it is tragic that two Presidents, although I cannot say that President Carter did so totally, as totally as President Reagan, who in effect has been conducting war in Central America, beginning with the massive military buildup, the greatest in the history of this region of the world, with 30,000 of our military in land, and the sea, and the air surrounding the Central American area, particularly Nicaragua.

Certainly we ought to realize that since the era of Vietnam we have had certain laws approved by the Congress that would try to define, and defuse, and prevent what has been called Presidential wars.

Obviously, I would not be motivated to the introduction of a resolution alleging that the President is in violation of the War Powers Limitation Act as I have in the case of Central America and as I did in the case of Lebanon and Beirut for 1 year and almost 14 months before the murder of the marines.

How did that come about? It was simply incredible to think that under the prior system to the 1947 Reorganization Act in defense and under the old system of the old Department of War, the Secretary of War, that such things as that would have happened; but under this system, which I believe has been a mistake and I have been saying so since I came to the Congress, to have had considered as final, that is, the Reorganization Act of 1947 which gave rise to the Defense Department, a Secretary of Defense, and the Joint Chiefs of Staff.

How could we have achieved professional militarists, all the main lead elements of our components in the military, forming and constituting the Joint Chiefs of Staff, advising the President that they were unanimous in their advice against his use of the Marines in Beirut?

How can we say that a Commander in Chief, for the Constitution vests that title in our President, would have willfully, knowingly, ignored that advice for 14 months, ending in the slaughter of 241 of our noble, best warriors.

To what avail was it for us to take this floor? I wish then my colleagues could have come here and joined in some little discussion, because it is fine to get up here and talk about something that has transpired, but it is another thing to get here and say: "I anticipate this for this reason and this is what I think we can do now"—not later.

This is where I would like to come today in my advice to the privileged orders. In the first place, if a President

seeks to define a policy that will bring about an understanding among our people as to the nature of the cause that he is asking us to rise to and support, especially if the military had been called in, a clear indication that our diplomacy has failed.

□ 1510

If, as the Scriptures say, the trumpets sound an uncertain sound, who then, who then can come forth and summon and unite behind an unclear trumpet call to battle? The whole problem continues to be this vagueness of mission.

When I got here evening after evening for 14 months and directed my inquiry to the President, mindful of the fact that I had written several letters to the President from the very beginning in 1981, but this is one of the six Presidents that does not reply to a Member of Congress' letter. It is the first President I have worked with that has this as a practice. So after I had received absolute verifiable information from members of the service who happened to be my constituents, who have been in service for years on the isthmus in Central America, and came to me in early September 1979 on a confidential, private basis, frustrated, concerned, worried because they could not get any kind of a message through the bureaucracy, and they thought well, our Congressman, maybe he ought to be able to have some access, maybe to the President himself.

I found I could not. But everything these men told me was absolutely true, and what they predicted happened exactly as they said, which, again, was reminiscent to me of 1960, in December. I was still a State Senator and I had information from a distinguished member of the Texas business community on the border who had been intimately involved in Cuba during the 1920's and the 1930's and had married a distinguished member of Cuban society, and told me that he wanted me to meet with a former distinguished Cuban jurist who had been a member of the World Court and was in exile in Miami, and he wanted me to intercede with President Kennedy, with whom he knew I had an intimate friendship. I had just completed campaigning in 11 States in behalf of the Kennedy-Johnson ticket.

In effect what he was telling me was that this distinguished jurist had this troubling information that the CIA had invested over $2.5 million in the Miami area alone preparing for an invasion of Cuba, that there were similar preparations in Nicaragua and other points in Central America, that the invasion would not work, that he even knew the date of the sailing of the ships for the purposes of invading. Also that Castro knew, himself, because he had managed to infiltrate these groups, that even if these groups managed to succeed in that invasion and overwhelm the Castro forces in Cuba, they would not be able to govern Cuba because they could not even get together themselves in Miami. That unless the United States was prepared to go in itself and occupy and govern Cuba, no other way could be found for the United States to do it by delegation of authority, and especially to any component or aggregation of those that were seeking the invasion.

It so happened that I did, I contacted President Kennedy's personal secretary and made arrangements to go with these people and meet the President at Bergstrom Air Force Base. He was at that time, it was December 11, 1960, the President was at West Palm Beach, FL and he was going to fly into Austin, TX at Bergstrom Air Force Base and then from there go visit Vice President Lyndon Johnson elect at his so-called ranch.

I arranged for this group on the following day to go to Bergstrom Air Force Base and would be permitted to visit with the President from 15 minutes to half an hour. But first the secretary wanted to make sure that I knew what I was doing, that I could respond for these individuals and that the President would in no way be embarrassed. I assured him of that.

However, to my great disappointment and surprise, the next day when I was supposed to have met this Cuban former jurist and this Texas businessman, the Cuban did not show up and as it later turned out he had been diverted by some of the conspirators who had found out that he was coming to San Antonio, TX for some unknown purpose, but which perhaps they did not trust.

As a result, I had to call and cancel the visit.

Subsequent to that the same request was made on the basis that this distinguished businessman in Texas assured me that President-elect Kennedy knew nothing about what had already been undertaken for about 1 year since about January 1959, and that it was on its course, that it was irreversible, that the President really did not know that this was something that the CIA had totally prepared on its own since the last year of President Eisenhower's regime.

I then suggested that I did not want to have anything more to do with that, that they resort to one of our Texas State Senators to seek that appointment with the President. I felt that I had gone far enough.

But nobody can imagine the travail I felt in mind and soul when the following February, on the exact date and the exact hour that this gentleman had told me in December the invasion would take place, it happened, with the results we all know.

I say that under the old system before reorganization in 1947, and this is something I had said even before then when I was in the State Senate, that we had created in our hierarchal scheme of things in our Government a situation where if the military expertise were called upon that that military expertise judgment would not have that input of evaluation that it should.

We read the memoirs of General Ridgeway who, if you read those memoirs, will tell you that he singlehanded, when he was a member of the Joint Chiefs of Staff representing the Army, and the Eisenhower administration was posing the question about direct intervention in what was then called Indochina, Southeast Asia, the memoirs tell us that General Ridgeway said, "Look, this is something, allow me, before you make a decision," because he confesses in his memoirs that the majority were about to go along with that decision, he said, "First hold up and allow me to bring the logistics of the situation." In other words, the reality. And he brought in his logisticians and they pointed out 8,000 miles of line of communication and supply line, the difficult area of troop activity from a hill standpoint where there were jungle diseases that even the greatest scientific epidemiologists had not even yet quite ascertained. He pointed out that it would be a quicksand in which our troops would disappear unless we were willing to go in what would be tantamount to an out and out declaration of war.

This is the talk I heard today, and the logistics are the same.

What is it we seek in Nicaragua? Ideological purity?

The President no less than 1 month ago, when thwarted by his request for money for the so-called Contras, was publicly soliciting and encouraging private groups to raise personal mercenaries and moneys to be used. In what?

□ 1520

In what? In not exacting ideological purity but in the overthrow of the Nicaraguan Government which, after the November elections last year, is to all intents and purposes throughout the world established as a legitimate regime. We cannot properly call it a Sandinista regime any longer. The Sandinista regime was the junta that operated until the election last November.

But let us forget about ideological purity because if this is what it is, and this was what it was when we got involved in it not only in Vietnam but prior to that in Korea, with the significant difference of when President Truman did introduce American troops he did so under the aegis, under

the name of the United Nations. We had some world opinion behind us.

In the case of Indochina we never did. We went into a situation in which we were having and witnessing a civil war within a religious war within that ideological war, but mostly a civil war.

In Nicaragua we have the identical situation. And nobody, even President Reagan does not deny that the revolution in Nicaragua was made, was indigenous, was not imposed by external forces, whether Castro or Cubans or Russians or anybody else. But let us think for a moment; let us say, and I believe the President is on an irreversible course of war, that he has been involved in acts of war; if the Nicaraguan Government were to come and mine Chesapeake Bay, would we consider that an act of war? Well, we have done that. We had mined the harbors of Nicaragua.

We talk about defending friendly allies. We are occupying Honduras without the express invitation of the representatives of the Honduran people. In fact we are very heavily criticized. There is great dissention even within the governing bodies in Honduras. In the case of the so-called Contras that the President so mischievously has called freedom fighters, you have great dissension. The greatest number of that motley crew consists of ex-Somocista national guardsmen.

Now let us assume that they would have the capability, and let us not forget at this point that General Paul Gorman, the outgoing Commander of the Southern Command, said right at the point that he was retiring as commander that there was no way that the Contras could knock over the Nicaraguan Government. But let us assume that is the decision. Let us assume that we finally come to our senses and we decide to get military expertise, I know for a fact, as I knew at the time though it was never published that the Joint Chiefs of Staff were solidly against the deployment of the marines by President Reagan in Beirut. I know now that no professional American military will tell you that it will take less than 100,000 of our troops in a direct involvement of the U.S. Forces. Now what does that mean? Let us be realistic. It means we would have to pull forces from somewhere, from the 45,000 we have in South Korea, or the 300,000 in Germany or those in the Middle East area. Nobody talks about the 2,000 American troops we have in the Sinai Desert. Everybody has forgotten about them. The significant difference of that mission being that for the first time in its history the Congress mandated that deployment of that military.

Who was here to debate that? Twelve Members. I was chastised by the then and much lamented chairman of the Committee on Foreign Affairs who had admonished me not to say anything, he did not want anybody to start trouble, he said; but I had to rise for the record and raise my voice and ask the question which I am still asking. Now, we pull those troops and we go into what obviously will be a corner-by-corner, street-by-street guerrilla type warfare with a people that the Nicaraguan Government has given arms to every family. They have built sandbag barricades on the street corners and the barrios of Managua. They are fully expecting an invasion on the part of American troops.

We will, of necessity, have to kill civilians, men, women, children.

Now let us say we succeed and we knock out the Government of Nicaragua, who is going to govern Nicaragua? The Contras? They would not last a day, unless we were there like we did with Somoza for 40 years, to shore them up. First impose him and then shore him up.

Well now is that democracy? Is that government by the just consent of the governed?

So we have to be realistic. This is what I have been trying to bring out, futilely during the Vietnam era. I did not wait until it was popular to be against the war, and it was difficult because it involved a very dear friend in the person of President Lyndon Johnson. But I was the one raising the issue, salutarily, in the Congress about the use of unwilling conscripts or draftees in undeclared wars outside of the continental United States. This was a proviso that was an integral part of the first peacetime draft act that was approved by the Congress by one vote, and only after that proviso was inserted in the law.

Well, who cared? Who cared as long as in the middle of 1965 I rose and pointed out that at that point in August 1965 over 45 percent, approximately 47 percent of those involved that would likey see combat were draftees, and of that the overwhelming preponderant majority were poor, poor members that had been drafted, that had no way of going to college and get exempted or had the sophisticated ways of taking courses like the Harvard students did on how to dodge the draft. And they died. The casualties started to come in.

It was not until we were forced to dip into those sources of manpower that came from the middle class and the upper class of our classes that then we began to have some serious questioning about the war.

Now I think that that is wrong. I did not think we should have waited. I think we should have examined then and we should have asked the paramount question: What is the mission of our military?

□ 1530

What was going to be our role in the midst of a civil war, forgeting about resisting Communist aggression. But what was the perception of the world, then, as it is now on the part of the wielders of power at this moment, with respect to Latin America?

The President very clearly expressed it when he said: I'm going to make those Sandinistas yell uncle. As if he were President Coolidge in 1929, when we last sent the Marines and then stayed there 9 years in order to install the Somoza regime and form the national guard, and then keep them in power for 40 years.

Now those days are gone forever, because that world is gone. They are gone forever. We also forget that logistically, even in Vietnam, with our massive presence of half a million of our military and with all of the modern weaponry we could muster, including one feature, complete control of the airspace. We could not and we did not win.

But what were we talking about, what were we trying to win? Certainly the American people did not understand it. How can a great national leader such as the President invoke war without first making sure that the people were susceptible to developing the will to fight, and fight in a united way?

This is why some historians are beginning to call World War II the last good war, which I think is a horrible, horrible misuse of words. There are no good wars, ever.

If that was meant to mean that there was a firm resolve, that the bulge sounded clearly and forthrightly and that that call was responded to, I recall there was not any one of us at that time that wasn't lining up—not to get drafted; to volunteer.

I hear parents telling me today, "Henry, my boy is not going to go to the draft anyplace, I'll tell you that now." And I said "Well, don't tell me." I have been saying that; it is not the point. The point is that you do not know. You do not know what you will be asking your boy to do, because we cannot foretell what will develop. All we can tell you, at least I, is that if we continue along a certain course of action, that inevitably this is going to happen.

This is why I said before the election last year that sometime before the election, depending on whether or not there was political trouble for the candidates, we would see headlines. But certainly right after the election we would see headlines saying, Mig's in Nicaragua, and everybody would be saying we had better do something.

We have had U.S. Senators saying, Well, this is amply cause for us to go in. I say now, it will not be long before we will have a similar headline, except

far more alarming, and the reason is that we have put in play forces.

For example, the week before last, a Honduran airplane that we supplied through the CIA, the Department of Defense last September 18 publicly stated that it had turned over what it called "excess warplanes" and military material to the CIA.

Now that posed two questions: The CIA, under the National Security Act of 1947, is not empowered as a paramilitary group. Yet no one has questioned it. Mine has been the only voice to even report that. This troubles me. There is no satisfaction in saying my voice was the only one; that is a very questionable type of boast, if I were to consider it such.

Let us pursue the point. This Honduran airplane sank a Nicaraguan patrol boat in Nicaraguan waters, not Honduran waters. Now there will be a limit beyond which any country, including the Nicaraguan regime, is going to do something, that we then will use as a pretext to say that we must defend the sovereignty of that nation; our ally Honduras, very much along the line that was spoken today, this afternoon.

I fully expect that headline. What happened last November? One day after the election, you had the beginning of what 2 days later was a headline: Mig's in Nicaragua. Then what happened 1 week later? The President was compelled to come out and say, "I don't know where that got started; that was a bad leak somewhere, but I'm not saying those are Mig's. There was something else in the bottom of those ships."

Why would I have predicted that? Was I a prophet, was I a seer? No; but I had received information that the CIA was, on a sustained basis, conducting attempts to assassinate the leaders of the Nicaraguan Government.

I was invited—I have not traveled down there. In fact, the reason is that all of this reminds me of Vietnam. I used to see some of my colleagues from Texas put on khaki, like the Governor of Texas did last month or the beginning days of this month, and went down and took chili con carne from his meat business and tamales and enchiladas and what not down to Honduras.

He put on khaki and a Westmoreland cap, and that is what I remember some of my colleagues from Texas saying, "Henry, you've got to come with us and go to Vietnam." I would say "No; I don't have to go to Vietnam. I have an overwhelming, disproportionate number of constituents that are over there. I wish I could pull them out."

I wanted to tell my two colleagues this afternoon who were talking about this great threat, that when the President announced the embargo, the newspapers very carefully left out what he had to establish as a finding of fact before he could impose the embargo. Under the law, the President has to say that Nicaragua is an emergency matter, a national emergency and a direct threat to our national interest and safety.

Now as I said earlier, it was obviously from the beginning a failure policy. Twenty-five countries of the new world today released this resolution condemning the President's action in invoking an embargo. All of the European allies, even at the conference in Germany, told the President that they were not going to go along; in fact, they were going to continue their trade and economic relations and some commitments of aid that they had already made to the Nicaraguan regime.

I say this is identically the same thing that we saw during the terrible conflict in South Vietnam in which we lost untold billions in Treasury and a lot of blood; 50,000 plus of our youth.

I believe that, had we had the correct perception of the world we would not have. Had we felt at the time that this was not a monolithic Communist world, that there was a history of war and animosity and conflict between Russia and China and between China and Vietnam, would we have proceeded under that assumption?

Would it have been wise? Why was it that even since Korea—the Soviets—Russia never had to put a live and kicking Russian soldier, much less a platoon into war involving Americans fighting Asians. Why? I asked that question before I came to the Congress. Actually, because diplomacy was a total failure.

What do we accomplish if we invoke military? What is it, then, that we seek as a mission? If our solider does not understand clearly what his mission is to be, how can we expect him to fight with the support and that type of backing that is so necessary to the fighting man?

If his support back home is confused and divided, if the leadership is unclear in its motives and goals and aims, how then can we expect success or that precious thing we call victory?

If we do not know what we are fighting for, if it is ideological, then we ought to have known since we invaded with France and England, Russia in 1918, to try to put down their revolution, that that will not succeed, that we cannot impose in the case of an indigenous, a native civil war, our people who will be governing.

We cannot, and we cannot ever bomb communism out of existence. The only answer to communism is social justice, nothing else.

I think it should be noted for the record that in both the Salvadoran elections and the Nicaraguan elections, you had candidates representing the Marxist-Leninist or Communist party. In either case, they did not even get 6 percent.

If we are worried about, in the last junta the two or three Marxist-Leninists in the Junta, forget the three priests that were in that same junta; and say Well, they ought to be ideologically pure; we cannot tolerate having a Marxist-Leninist, then what do we do about France?

□ 1540

France has two Communists in its Cabinet. Why do we not invade France? Why do we not try to purify France?

Well, because the absurdity of it hits us. So then what is and what should be our mission? Why is it that we have dozens of my colleagues traveling down to Nicaragua and El Salvador and almost everyone coming back with an entirely different impression? This is reminiscent of Vietnam. I remember some of my Texas colleagues who did go, and one would come back and say, "Well, you know, that South Vietnamese regime is corrupted, we will not be able to do any good, we ought to Americanize it, we ought to give the money to the South Vietnamese, let them fight it out." And, then right next to a companion visiting with him, was someone who said, "Absolutely not. Our presence is necessary to stem the Communist invasion."

The SPEAKER pro tempore. The time of the gentleman from Texas [Mr. GONZALEZ] has expired.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. NELSON] is recognized for 5 minutes.

● Mr. NELSON of Florida. Mr. Speaker, due to official business in my home State of Florida, I was unable to be present to vote on rollcall votes 116 and 117, May 15, 1985. Had I been present, I would have voted "nay" on No. 116, a motion to adjourn, and "aye" on No. 117, approving the rule to consider the Department of Defense authorization bill.●

FINANCIAL DISCLOSURE STATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KASTENMEIER] is recognized for 5 minutes.

● Mr. KASTENMEIER. Mr. Speaker, even though Public Law 95-521, the Ethics in Government Act of 1978, requires public financial disclosure, nonetheless, I am continuing my practice, begun in 1963, of reporting in the CONGRESSIONAL RECORD on my personal financial condition. This disclosure, through its more precise statements, differs in important respects from the

report which we are required to file by public law and by House rules.

My report covers the calendar year 1984 and also includes the amount of Federal, State of Wisconsin, and local real estate taxes paid in 1984.

Mr. Speaker, the report follows:

Financial disclosure statement—statement of financial condition, Dec. 31, 1984

Checking account, with the Sergeant at Arms, House of Representatives	$3,818.50
Cash	75.91
Securities (stocks, bonds, etc.) WPCF Credit Union (1 share)	5.53
Residential real estate:	
Arlington house and lot (1984 assessment)	209,400.00
Less mortgage	5,105.00
Equity	204,295.00
Sun Prairie house and lot	29,000.00
Improvements (dep'd)	1,296.00
Back lot	1,200.00
Sewer and water improvements	4,789.00
Total	36,285.00
Less mortgage	11,772.15
Less unpaid sewer and water assessments	246.00
Total	12,018.15
Equity	24,266.85
Household goods and miscellaneous personalty	8,500.00
Miscellaneous assets, deposits, with the U.S. Civil Service retirement fund through Dec. 31, 1984, available only in accordance with applicable laws and regulations	80,879.17
Additional retirement fund deposit	1,130.00
Cash value	None
Cash surrender value of life insurance:	
On the life of Robert W. Kastenmeier	None
On the life of Dorothy C. Kastenmeier	544.00
Deposit, Donaldson Run	400.00
Automobiles:	
1976 Oldsmobile	400.00
1978 Mercury	1,600.00
Net worth	243,905.79
Taxes paid in 1984:	
Federal income tax	15,717.86
Wisconsin income tax	6,668.97
Federal employers tax	140.79
Arlington County real estate tax	2,031.18
Sun Prairie real estate taxes, including assessments	1,743.98
State sales tax	345.00
Total	26,656.78
1984 income congressional salary	72,366.68
Gross rent, Sun Prairie house	3,720.00
Honoraria (4)	6,000.00
Total	82,086.68
1984 separate income of my wife, Dorothy C. Kastenmeier:	
Net rent	1,500.00
Hunting lease	160.00
Total	1,660.00

NOTE.—Separate property of spouse not listed.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. SLAUGHTER) to revise and extend his remarks and include extraneous material:)

Mr. PURSELL, for 60 minutes, today.

(The following Members (at the request of Mr. COELHO) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DE LA GARZA, for 60 minutes, May 21.

Mr. YATRON, for 60 minutes, May 21.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. NELSON of Florida, for 5 minutes, today.

Mr. KASTENMEIER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BEDELL, and to include extraneous matter notwithstanding the fact that it exceeds 2 pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $3,733.75.

(The following Members (at the request of Mr. SLAUGHTER) and to include extraneous matter:)

Mr. MCCAIN.

Mr. GOODLING.

Mr. CLINGER.

Mr. MILLER of Ohio in four instances.

Mr. GILMAN in two instances.

Mr. YOUNG of Alaska.

Mr. CONTE.

(The following Members (at the request of Mr. COELHO) and to include extraneous matter:)

Mr. KANJORSKI in two instances.

Mr. GORDON.

Ms. KAPTUR.

Mr. RAHALL.

Mr. LEVINE of California in two instances.

Mr. ADDABBO.

Mr. FASCELL.

Mr. BARNES.

Mr. HUBBARD.

Mr. MONTGOMERY in two instances.

Mr. MARKEY in two instances.

Mr. GUARINI.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 484. An act to amend the Saccharin Study and Labeling Act;

S. 661. An act entitled the "George Milligan Control Tower"; and

S.J. Res. 61. Joint resolution to designate the week of May 20, 1985, through May 26, 1985, as "National Osteoporosis Awareness Week."

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 43 minutes p.m.), under its previous order, the House adjourned until Monday, May 20, 1985, at 12 o'clock noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees and a delegation traveling under an authorization from the Speaker concerning the foreign currencies and U.S. dollars utilized by them during the first quarter of calendar year 1985 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1985

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. E. Thomas Coleman	1/4	1/7	Portugal	55,080	324.00						324.00
	1/7	1/9	Belgium	13,714	216.00						216.00
	1/9	1/12	Israel		399.00						399.00
	1/12	1/13	Denmark	1,225	111.00						111.00
	1/13	1/17	Soviet Union		635.00						635.00
	1/17	1/19	Austria	5,140.50	230.00						230.00

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1985—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Military transportation							5,556.94				5,556.94
Hon. E. Thomas Coleman	3/13	3/15	Switzerland		225.00						225.00
Commercial transportation							921.00				921.00
Hon. James M. Jeffords	1/12	1/14	Argentina		324.00						324.00
	1/15	1/18	Chile		384.00						384.00
Commercial transportation							3,789.00				3,789.00
Hon. Webb Frankin	1/5	1/8	Brazil	1,375,704	434.25						434.25
	1/8	1/12	Peru	2,596,320	432.00						432.00
	1/12	1/16	Argentina	98,064	432.00						432.00
	1/16	1/18	Barbados	796.50	382.00						382.00
Military transportation							5,408.12				5,408.12
Hon. Jerry Huckaby	1/5	1/8	Brazil	1,375,704	434.25						434.25
	1/8	1/12	Peru	2,596,320	432.00						432.00
	1/12	1/16	Argentina	98,064	432.00						432.00
	1/16	1/18	Barbados	796.50	382.00						382.00
Military transportation							5,408.12				5,408.12
Hon. E de la Garza	2/9	2/13	Brazil	1,800,810	495.00						495.00
Codel	2/13	2/17	Argentina	130,464	432.00						432.00
Military transportation							4,068.16				4,068.16
Hon. Berkley Bedell	2/9	2/13	Brazil	1,800,810	495.00						495.00
	2/13	2/17	Argentina	130,464	432.00						432.00
Military transportation							4,068.16				4,068.16
Hon. Charles Hatcher	2/9	2/13	Brazil	1,800,810	495.00						495.00
	2/13	2/17	Argentina	130,464	432.00						432.00
Military transportation							4,068.16				4,068.16
A. Mario Castillo	2/9	2/13	Brazil	1,800,810	495.00						495.00
	2/13	2/17	Argentina	130,464	432.00						432.00
Military transportation							4,068.16				4,068.16
Timothy Galvin	2/9	2/13	Brazil	1,800,810	495.00						495.00
	2/13	2/17	Argentina	130,464	432.00						432.00
Military transportation							4,068.16				4,068.16
Heidi Pender	2/9	2/13	Brazil	1,800,810	495.00						495.00
	2/13	2/17	Argentina	130,464	432.00						432.00
Local air transportation							633.80				633.80
Military transportation							4,068.16				4,068.16
OTHER EXPENDITURES											
Hon. E de La Garza:											
Manaus and Barsilia, Brazil (2/9 to 2/13):											
FSN Embassy support personnel									239.86		239.86
Local transportation									1,564.11		1,564.11
Control rooms									286.54		286.54
Miscellaneous									260.41		260.41
Telephone									53.73		53.73
Buenos Aires, Argentina (2/13 to 2/17):											
FSN Embassy support personnel									1,443.82		1,443.82
Local transportation									210.41		210.41
Interpreting services									455.85		455.85
Representation									100.00		100.00
Miscellaneous									185.71		185.71
Committee total					11,770.50		46,125.94		4,800.44		62,696.88

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

E de la GARZA, Chairman, Apr. 30, 1985.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1985

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Alfred A. (Al) McCandless	1/4	1/7	Portugal	55,080	324.00						324.00
	1/7	1/9	Belgium	13,714	216.00						216.00
	1/9	1/12	Israel		399.00						399.00
	1/12	1/13	Denmark	1,225	111.00						111.00
	1/13	1/17	Soviet Union		635.00						635.00
	1/17	1/19	Austria	5,140.50	230.00						230.00
U.S. military							5,556.94				5,556.94
Hon. William F. Clinger, Jr	1/4	1/7	Portugal	55,080	324.00		72.92		263.88		660.80
	1/7	1/9	Belgium	13,714	216.00				106.47		322.47
	1/9	1/12	Israel		399.00		207.72		38.16		644.88
	1/12	1/13	Demark	1,225	111.00		15.48		22.00		148.48
	1/13	1/17	Soviet Union		635.00						635.00
	1/17	1/19	Austria	5,140.50	230.00						230.00
U.S. military							5,556.94				5,556.94
Hon. John Conyers, Jr	1/5	1/7	France	2,308.60	238.00					2,308.60	238.00
	1/7	1/10	Gabon	166,980	345.00					166,980	345.00
	1/10	1/11	Cameroon	57,500	119.00				13.91		132.91
	1/11	1/13	Mozambique		216.00						216.00
U.S. military							5,849.25				5,849.25
Commercial							3,827.00				3,827.00
Hon. Cardiss Collins	1/5	1/8	Israel		399.00				566.28		965.28
	1/8	1/11	Egypt		246.00				304.81		550.81
	1/11	1/15	Greece		540.00				80.66		620.66
	1/15	1/18	Spain		327.00				197.51		524.51
U.S. military							8,817.30				8,817.30

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON GOVERNMENT OPERATIONS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1985—Continued

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Glenn English	1/14	1/15	Freeport		156.00						156.00
	1/15	1/17	Panama		160.00						160.00
Hon. Gerald D. Kleczka	1/14	1/15	Freeport		156.00						156.00
	1/15	1/17	Panama		160.00						160.00
William G. Lawrence	1/14	1/15	Freeport		156.00						156.00
	1/15	1/17	Panama		160.00						160.00
Theodore N. Mehl	1/14	1/15	Freeport		156.00						156.00
	1/15	1/17	Panama		160.00						160.00
William T. Cherry	1/14	1/15	Freeport		156.00						156.00
	1/15	1/17	Panama		160.00						160.00
Robert M. Gellman	1/14	1/15	Freeport		156.00						156.00
	1/15	1/17	Panama		160.00						160.00
Transportation for entire delegation							25,338.38				25,338.36
Hon. Mike Synar	2/7	2/8	Mexico	37,916	162.56						162.56
	2/8	2/10	Nicaragua		271.00		[3] 64.92				395.74
							[4] 59.82				
	2/10	2/12	Costa Rica		150.00						150.00
	2/12	2/13	El Savador	607.50	150.00						150.00
Commercial							911.00				911.00
Committee total					8,889.56		56,277.65		1,593.68		66,760.89

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Travel allowance.
[4] Charter change.

JACK BROOKS, Chairman, Apr. 30, 1985.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON THE JUDICIARY, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1985

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Garner J. Cline, staff	1/6	1/12	Italy		696.00				1,450.41		2,146.41
	1/12	1/18	Israel		266.00						266.00
	1/18	1/20	England		122.00		109.58				231.58
Commercial transportation							4,723.00				4,723.00
Romano L. Mazzoli, MC	1/7	1/8	England		122.00						122.00
	1/8	1/10	Switzerland		216.00		198.84				414.84
	1/10	1/15	Italy		696.00		508.72				1,204.72
Commercial transportation							4,379.00				4,379.00
Peter Regis, staff	1/7	1/8	England		122.00						122.00
	1/8	1/10	Switzerland		216.00		198.84				414.84
	1/10	1/15	Italy		696.00		508.72				1,204.72
Commercial transportation							4,379.00				4,379.00
Bill McCollum, MC	1/13	1/15	El Salvador		150.00				30.00		180.00
	1/15	1/18	Honduras		288.00						288.00
Commercial transportation							676.00				676.00
Thomas Boyd, staff	1/13	1/15	El Salvador		150.00				30.00		180.00
	1/15	1/18	Honduras		288.00						288.00
Commercial transportation							751.00				751.00
Committee total					4,028.00		16,432.00		1,510.41		21,971.11

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

PETER W. RODINO, JR., Chairman.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, DELEGATION TO CUBA, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 10 AND 18, 1985

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Bill Alexander	1/11	1/18	Cuba		690.00		3,120.25				3,810.25
James A.S. Leach	1/11	1/18	Cuba		690.00		3,120.25				3,810.25
Dorothy Thomas	1/11	1/18	Cuba		690.00		3,120.25				3,810.25
Steve Skardon	1/11	1/18	Cuba		690.00		3,120.25				3,810.25

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

BILL ALEXANDER, May 1, 1985.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1298. A letter from the Director, ACTION, transmitting the Agency's 1984 annual report, pursuant to 42 U.S.C. 5407; to the Committee on Education and Labor.

1299. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report of political contributions by J. William Middendorf II, Ambassador Extraordinary and Plenipotentiary-elect, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1300. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a report of political contributions by Edward J. Perkins, Ambassador Extraordinary and Plenipotentiary-elect, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

1301. A letter from the Director, National Legislative Commission, The American Legion, transmitting the financial audit of the Legion as of December 31, 1983, pursuant to Public Law 88-504, section 3 (36

U.S.C. 1103); to the Committee on the Judiciary.

1302. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to require tonnage measurement of vessels engaged on international voyages and within the jurisdiction of the United States, and for other purposes; to the Committee on Merchant Marine and Fisheries.

1303. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend title XVIII of the Social Security Act to require that Medicare providers of hospital services also participate in the Civilian Health and Medical Program of the Uniformed Services [CHAMPUS] and in the Civilian Health and Medical Program of the Veterans' Administration [CHAMPVA]; jointly, to the Committees on Ways and Means, Energy and Commerce, Armed Services, and Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DERRICK: Committee on Rules. H.R. 1460. A bill to express the opposition of the United States to the system of apartheid in South Africa, and for other pruposes (Rept. No. 99-76, Pt. II). Ordered to be printed.

[Omitted from the Record of May 15, 1985]

Mr. DELLUMS: Committee on Armed Services. H.R. 1409. A bill to authorize certain construction at military installations for fiscal year 1986, and for other purposes; with an amendment (Rept. No. 99-128). Referred to the Committee of the Whole House on the State of the Union.

[Submitted May 16, 1985]

Mr. DERRICK: Committee on Rules. House Resolution 174. Resolution providing for the consideration of H.R. 1460, a bill to express the opposition of the United States to the system of apartheid in South Africa, and for the purposes (Rept. No. 99-131). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[Omitted from the Record of May 15, 1985]

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 1202. A bill to authorize appropriations to carry out conservation programs on military reservations and public lands during the fiscal years 1986, 1987, and 1988; with amendments; referred to the Committee on Armed Services for a period ending not later than July 1, 1985, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(c), rule XI (Rept. No. 99-129, Pt. I). Ordered to be printed.

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 2402. A bill to establish the Public Buildings Service in the General Services Administration, and for other purposes; referred to the Committee on Government Operations for a period ending not later than June 21, 1985 for consideration of such portions of the bill as fall within that committee's jurisdiction pursuant to clause 1(j) of rule XI (Rept. No. 99-130, Pt. I). Ordered to be printed.

Mr. MAZZOLI: Committee on the Judiciary. H.R. 1452. A bill to amend the Immigration and Nationality Act to extend for two years the authorization of appropriations for refugee assistance, and for other purposes; with an amendment; referred to the Committee on Foreign Affairs for a period ending not later than June 11, 1985 for consideration of such portions of the bill and amendment as fall within that committee's jurisdiction pursuant to clause 1(i), rule XI (Rept. No. 99-132, Pt. I). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DONNELLY (for himself, Mr. CONTE, and Mr. FRANK):

H.R. 2530. A bill to amend the Internal Revenue Code of 1954 to provide a one-time amnesty from tax penalties for taxpayers who pay previous underpayments with interest, and to improve compliance with the internal revenue laws by increasing authorizations to the Internal Revenue Service for enforcement and by prohibiting the awarding of Federal contracts and certain Federal licenses to taxpayers who have tax delinquent accounts, and for other purposes; to the Committee on Ways and Means.

By Mr. BIAGGI:

H.R. 2531. A bill to encourage the States to prescribe the death penalty for willfully killing a law enforcement officer; to the Committee on the Judiciary.

H.R. 2532. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax for employers who provide onsite dependent care assistance for dependents of their employees; to the Committee on Ways and Means.

By Mr. BIAGGI (for himself, Mr. STUDDS, Mr. MCKERNAN, Mr. BOSCO, Mr. ORTIZ, and Mr. MANTON):

H.R. 2533. A bill to amend the Maritime Education and Training Act of 1980; to the Committee on Merchant Marine and Fisheries.

By Mr. DICKINSON:

H.R. 2534. A bill to amend the Federal Election Campaign Act with respect to contributions and expenditures by national banks, corporations, and labor unions; to the Committee on House Administration.

By Mr. GOODLING:

H.R. 2535. A bill to establish a pilot program to develop methods for parents who are in adult literacy programs, and who have preschool-age children who may be educationally at risk, to acquire the skills necessary to work in the home with those children; to the Committee on Education and Labor.

By Mr. HUCKABY (for himself and Mr. STANGELAND):

H.R. 2536. A bill to provide price and income protection for farmers of cotton, rice, and sugar, and to assure consumers an abundance of such commodities at reasonable prices; to the Committee on Agriculture.

By Mr. JEFFORDS (for himself and Mr. LIVINGSTON):

H.R. 2537. A bill to amend title 23, United States Code, to direct the Secretary of Transportation to apportion Federal highway funds withheld from any State for failure to have in effect a minimum drinking age of 21 if certain alcohol-related traffic fatalities are significantly reduced; to the Committee on Public Works and Transportation.

By Mr. LEACH of Iowa (for himself and Mr. MADIGAN):

H.R. 2538. A bill exempting the export of certain agricultural commodities from the cargo preference provision of the Merchant Marine Act, 1936; jointly, to the Committees on Foreign Affairs, Agriculture, and Merchant Marine and Fisheries.

By Mr. MITCHELL:

H.R. 2540. A bill to authorize the appropriation of funds to the Small Bussines Administration, and for other purposes; to the Committee on Small Business.

By Mr. MOLLOHAN (for himself, Mr. WISE, and Mr. RAHALL):

H.R. 2541. A bill to amend the Federal-State Extended Unemployment Compensation Act of 1970 to provide that extended benefits will be payable in any State in which the rate of regular unemployment equals or exceeds 9 per centum, and for other purposes; to the Committee on Ways and Means.

By Mr. MONSON (for himself, Mr. NIELSON of Utah, and Mr. HANSEN):

H.R. 2542. A bill designating the building located at 125 South State Stret, Salt Lake City, UT, as the "Wallace F. Bennett Federal Building"; to the Committee on Public Works and Transportation.

By Mr. SMITH of New Jersey (for himself, Mr. COYNE, Mr. DAUB, Mr. GUARINI, Mr. WOLF, Mr. SKEEN, Mr. SOLOMON, Mr. COBEY, Mr. DORNAN of California, Mr. SAXTON, Mr. COURTER, Mr. RINALDO, Mr. GALLO, Mr. SILJANDER, Mrs. BENTLEY, Mr. MAVROULES, and Mr. SMITH of New Hampshire):

H.R. 2543. A bill to amend title XVIII of the Social Security Act to provide for Medicare payment for therapeutic shoes for individuals with severe diabetic foot disease; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. WYDEN:

H.R. 2544. A bill to direct the Attorney General to establish a clearinghouse for information relating to criminal practices in connection with certain employment of youth, to require active Federal investigation and prosecution of such practices in violation of Federal law, and for other purposes; to the Committee on the Judiciary.

By Mr. CONYERS:

H. Con. Res. 149. Concurrent resolution expressing the sense of Congress that the President should extend full diplomatic recognition to the African National Congress in South Africa and should provide it with economic support in its struggle against apartheid; to the Committee on Foreign Affairs.

By Mr. DICKINSON (for himself, Mr. STRATTON, Mr. LOTT, Mr. O'BRIEN, Mr. DREIER of California, Mr. LAGOMARSINO, Mr. FLIPPO, Mr. NELSON of Florida, Mr. ARMEY, Mr. HUNTER, Mr. ROBERTS, Mr. HUTTO, Mr. LENT, Mr. CARNEY, Mr. MARLENEE, Mr. VANDER JAGT, Mr. SHELBY, Mr. SILJANDER, Mr. HARTNETT, Mr. GILMAN, Mr. BLILEY, Mr. FRANKLIN, Mr. DORNAN of California, Mr. SOLOMON, Mr. CALLAHAN, Mr. MURTHA, Mr. HYDE, Mr. DAVIS, Mr. MICHEL, Mr. LEWIS of Florida, Mr. OXLEY, Mr. HATCHER, Mr. STUMP, Mr. DE LA

GARZA, Mr. KINDNESS, Mr. BILIRAKIS, Mr. DYSON, Mr. HENDON, Mr. IRELAND, Mr. MCCAIN, Mr. SHAW, Mr. BARNARD, Mr. LIVINGSTON, Mr. MADIGAN, Mr. BROYHILL, Mr. YOUNG of Florida, Mrs. HOLT, Mr. WALKER, Mr. CRAIG, Mr. FIELDS, Mr. LUNGREN, Mr. GEKAS, Mr. HILER, Mr. SISISKY, Mr. CHAPPELL, Mr. CHENEY, Mr. LOEFFLER, Mr. GRADISON, Mr. KRAMER, Mr. HUCKABY, Mr. ARCHER, Mr. RUDD, Mr. BENNETT, Mr. ENGLISH, Mr. QUILLEN, Mr. MCGRATH, Mr. DARDEN, Mr. ROWLAND of Georgia, Mr. JONES of North Carolina, Mr. TAYLOR, Mr. THOMAS of Georgia, Mr. LATTA, Mr. HOPKINS, Mr. DENNY SMITH, Mr. DAUB, Mr. RINALDO, Mr. MICA, Mr. DELAY, Mr. RITTER, and Mr. EMERSON):

H. Con. Res. 150. Concurrent resolution to express the sense of the Congress that the national security policy of the United States should reflect a national strategy of peace through strength; jointly, to the Committees on Armed Services and Foreign Affairs.

By Mr. PURSELL (for himself, Mr. TAUKE, and Ms. SNOWE):

H. Con. Res. 151. Concurrent resolution to revise the congressional budget for the U.S. Government for the fiscal year 1985 and setting forth the congressional budget for the U.S. Government for the fiscal years 1986, 1987, and 1988; to the Committee on the Budget.

By Mr. FEIGHAN:

H. Res. 175. Resolution to provide that it shall not be in order to consider any legislation relating to the sale of the interest of the United States in the common stock of the Consolidated Rail Corporation to the Norfolk Southern Corp., until the Department of Justice has taken certain actions and reported to the Congress; to the Committee on Rules.

By Mr. ROYBAL:

H. Res. 176. Resolution establishing a pilot program of fellowships under the House of Representatives for persons who are blind or deaf; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DORNAN of California:

H.R. 2545. A bill for the relief of Maria Marinoiu; to the Committee on the Judiciary.

By Mr. DUNCAN:

H.R. 2546. A bill for the relief of Willie G. Simpson; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. FAUNTROY.

H.R. 151: Mr. CLINGER, Mr. EDGAR, and Ms. OAKAR.

H.R. 281: Mr. TRAXLER.

H.R. 343: Mr. STANGELAND.

H.R. 641: Mr. SHELBY.

H.R. 776: Mr. SHAW and Mr. BLAZ.

H.R. 877: Mr. FRANKLIN.

H.R. 893: Mr. FEIGHAN.

H.R. 915: Mr. SKELTON.

H.R. 1059: Mr. PACKARD.

H.R. 1123: Mr. VANDER JAGT, Mr. SUNDQUIST, and Mr. MARLENEE.

H.R. 1132: Mr. BOUCHER.

H.R. 1161: Mr. ANDREWS.

H.R. 1217: Mr. WATKINS.

H.R. 1318: Mr. COELHO.

H.R. 1427: Mr. MORRISON of Connecticut, Mr. SEIBERLING, Ms. OAKAR, Mr. SIKORSKI, Mr. LEVIN of Michigan, Mr. FAZIO, and Mr. DURBIN.

H.R. 1550: Mr. LIPINSKI, Mr. WORTLEY, Mr. SHUSTER, Mr. FISH, and Mr. FAZIO.

H.R. 1611: Mr. CROCKETT, Mr. NOWAK, and Mr. ROWLAND of Connecticut.

H.R. 1616: Mr. PERKINS.

H.R. 1675: Mr. CONYERS.

H.R. 1715: Mr. BATES. Mr. MATSUI, Mr. RANGEL, Mr. VENTO, Mr. WEISS, and Mr. SHAW.

H.R. 1719: Mr. GINGRICH, Mr. IRELAND, Mr. MONTGOMERY, Mr. GROTBERG, and Mr. LEATH of Texas.

H.R. 1724: Mr. ROEMER.

H.R. 1853: Mr. SISISKY and Mr. SEIBERLING.

H.R. 1888: Mr. JACOBS, Mr. ARMEY, Mr. HILER, Mr. KOSTMAYER, Mr. FAWELL, Mr. CONYERS, Mr. MORRISON of Connecticut, Mr. MARTINEZ, Mr. ROWLAND of Connecticut, Mr. FORD of Tennessee, Mr. BURTON of Indiana, Mr. MARKEY, Mr. BROWN of Colorado, Mr. WOLPE, Mr. GREGG, Mr. MACKAY, Mr. CRAIG, Mr. BEILENSON, Mr. BONIOR of Michigan, and Mr. SHARP.

H.R. 1916: Mr. GROTBERG, Mr. KASTENMEIER, Mr. CRAIG, Mr. CAMPBELL, Mr. GARCIA, Mr. BURTON of Indiana, and Mr. SILJANDER.

H.R. 1965: Mrs. BYRON, Mr. LATTA, Mr. MICHEL, Mr. MILLER of Ohio, Mr. NIELSON of Utah, Mr. RICHARDSON and Mr. PANETTA.

H.R. 2003: Mr. KOLTER and Mr. ROSE.

H.R. 2010: Mr. MCCAIN, Mr. FAUNTROY, Mr. YOUNG of Florida, and Mr. KOLTER.

H.R. 2020: Mr. MORRISON of Connecticut, Mr. SMITH of Florida, Mr. WEISS, Mr. FAZIO, Mr. MARTINEZ, Mr. YATES, Mr. CLAY, and Mr. KILDEE.

H.R. 2034: Mr. BERMAN, Mr. MOODY, Mrs. BURTON of California, and Mr. VENTO.

H.R. 2042: Mr. FAZIO, Mr. KILDEE, Mr. LEHMAN of California, Mr. MARTINEZ, Mr. MORRISON of Connecticut, and Mr. WAXMAN.

H.R. 2119: Mr. ANDREWS, Mr. SKELTON, Mr. MONSON, Mr. CARPER, Mr. BADHAM, Mr. WOLPE, Mr. DAUB, and Mr. LEVINE of California.

H.R. 2184: Mr. FRANK.

H.R. 2262: Mr. WOLPE, Mr. FAUNTROY, Mr. MITCHELL, and Mr. KOLTER.

H.R. 2263: Mr. EVANS of Illinois, Mr. DIOGUARDI, and Mr. VENTO.

H.R. 2293: Mr. WILSON, Mr. LUKEN, Mr. WHITEHURST, Mr. FAZIO, Mr. SIKORSKI, Mr. LEHMAN of Florida, Mr. DONNELLY, Mr. SKELTON, Ms. KAPTUR, Mr. ROE, Mr. CLINGER, Mr. WALGREN, and Ms. MIKULSKI.

H.R. 2337: Mr. SLAUGHTER.

H.R. 2364: Mr. MATSUI and Mr. KILDEE.

H.R. 2397: Mr. MADIGAN, Mr. DOWNEY of New York, Mr. OLIN, Mr. CARNEY, and Mr. ROE.

H.R. 2401: Mr. JEFFORDS, Mr. BOUCHER, Mr. MITCHELL, Mr. WILLIAMS, Mr. BERMAN, Mr. RAHALL, and Mr. FROST.

H.R. 2489: Mr. LUKEN and Mr. SWIFT.

H.J. Res. 3: Mrs. JOHNSON.

H.J. Res. 24: Mr. BARTLETT.

H.J. Res. 131: Mr. STANGELAND, Mr. JEFFORDS, Mr. LEWIS of Florida, Mr. MOODY, Mr. RAY, Mrs. BENTLEY, and Mr. DE LA GARZA.

H.J. Res. 156: Mr. MANTON.

H.J. Res. 178: Mr. FRENZEL, Mr. BOLAND, Mr. DE LA GARZA, Mr. LOTT, Mr. WIRTH, Mr. MONTGOMERY, Mr. ROBERT F. SMITH, Mr. SCHAEFER, Mr. GONZALEZ, and Mr. HOYER.

H.J. Res. 230: Mr. TALLON, Mr. HANSEN, Mrs. BOGGS, Mr. GEKAS, and Mr. YOUNG of Missouri.

H.J. Res. 234: Mr. NOWAK, Mr. TAYLOR, Mr. FORD of Tennessee, Mr. OBERSTAR, Mr. ROEMER, Mr. FLORIO, Mr. STANGELAND, Mr. HAWKINS, Mr. KLECZKA, Mr. HAYES, Mr. VOLKMER, Mr. BUSTAMANTE, Mr. PACKARD, Mr. TAUKE, Mr. FOLEY, Mr. ROE, Mr. BENNETT, Mr. ROSE, Mr. WORTLEY, Mr. AUCOIN, Mr. KILDEE, Mr. FAUNTROY, Mr. SOLARZ, and Ms. MIKULSKI.

H.J. Res. 263: Mr. RAHALL, Mr. ADDABBO, Mr. MURPHY, Mr. BATEMAN, Mr. KINDNESS, Mr. EARLY, Mr. HENRY, Mr. FEIGHAN, Mr. DASCHLE, Ms. OAKAR, Mr. HEFNER, Mr. PANETTA, Mr. LANTOS, Mr. HUTTO, Mr. ECKERT of New York, Mr. HALL of Ohio, Mrs. COLLINS, Mr. CRANE, Mr. ROE, Mr. LOWERY of California, Mr. KANJORSKI, Mr. YOUNG of Florida, Mr. SOLOMON, Ms. KAPTUR, Mr. GALLO, Ms. FIEDLER, Ms. MIKULSKI, Mr. MOORHEAD, Mr. BROOMFIELD, Mr. PEPPER, Mr. VANDER JAGT, Mr. WORTLEY, Mr. SKELTON, Mr. FLORIO, Mr. GREEN, Mr. MCGRATH, Mr. COURTER, Mr. HOYER, Mr. HOWARD, and Mr. VENTO.

H.J. Res. 267: Mr. HUCKABY and Mr. SMITH of New Jersey.

H. Con. Res. 69: Mr. KILDEE, Mr. MILLER of Ohio, Mr. KOLTER, Mr. SHUMWAY, and Mr. BROYHILL.

H. Con. Res. 117: Mrs. LLOYD and Mr. RICHARDSON.

H. Res. 37: Mr. MURPHY.

H. Res. 55: Mr. KILDEE and Mr. GUARINI.

H. Res. 165: Mr. PRICE, Mr. MARLENEE, Mr. LUNDINE, Mr. SCHUETTE, Ms. OAKAR, Mr. NICHOLS, Mr. FOWLER, Ms. KAPTUR, Mr. GINGRICH, Mr. GREGG, Mr. HOWARD, Mr. DERRICK, Mr. EVANS of Iowa, Mr. SEIBERLING, Mr. BIAGGI, Mrs. BURTON of California, Mr. OBERSTAR, Mr. BADHAM, Mr. DARDEN, Mr. VOLKMER, Mr. KOSTMAYER, Mr. KLECZKA, Mr. SWIFT, Mr. MICA, and Mr. ANDERSON.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1460

By Mr. DELLUMS:

(Amendment in the nature of a substitute.)

SECTION 1. PROHIBITION ON INVESTMENTS IN SOUTH AFRICA.

No United States person may, directly or through another person, make or hold any investment in South Africa.

SEC. 2. PROHIBITION ON EXPORTS TO SOUTH AFRICA.

(1) GENERAL RULE.—No goods, technology, or other information subject to the jurisdiction of the United States may be exported to South Africa, and no goods, technology, or other information may be exported to South Africa by any person subject to the jurisdiction of the United States. The prohibition contained in this paragraph shall apply to goods, technology, or other information of any kind, which is subject to controls under the Export Administration Act of 1979, the Arms Export Control Act, the Atomic Energy Act of 1954, or any other provision of law.

(2) EXCEPTION.—The prohibition contained in paragraph (1) shall not apply to exports described in section 6(f) of the Export Administration Act of 1979.

SEC. 3. PROHIBITION ON LANDING RIGHTS OF SOUTH AFRICAN AIRCRAFT.

(a) PROHIBITION.—The Secretary of Transportation shall prohibit the takeoff and landing of any aircraft by an air carrier owned by the Government of South Africa or any citizen or national of South Africa.

(b) EXCEPTIONS FOR EMERGENCIES.—The Secretary of Transportation may provide for such exceptions from the prohibition set forth in subsection (a) as the Secretary considers necessary to provide for emergencies in which the safety of an aircraft or its crew or passengers are threatened.

(c) DEFINITIONS.—For purposes of this section, the terms "aircraft" and "air carrier" have the meanings given those terms in section 101 of the Federal Aviation Act of 1958.

SEC. 4. PROHIBITION ON IMPORTATION OF KRUGERRANDS.

No person may import into the United States any South African krugerrand or any other gold coin minted in South Africa or offered for sale by the Government of South Africa.

SEC. 5. ENFORCEMENT; PENALTIES.

(a) AUTHORITIES OF THE PRESIDENT.—The President shall take necessary steps to insure compliance with the provisions of this Act and any regulations, licenses, and orders issued to carry out this Act, including establishing mechanisms to monitor compliance with such provisions, regulations, licenses, and orders. In insuring such compliance, the President may conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and production of all books, papers, and documents relating to any matter under investigation.

(b) VIOLATIONS.—Any person that violates the provisions of this Act or any regulation, license, or order issued to carry out this Act shall—

(1) if other than an individual, be fined not more than $1,000,000; and

(2) if an individual, be fined not more than $50,000, or imprisoned not more than 5 years, or both.

(c) ADDITIONAL PENALTIES FOR CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Whenever a person violates the provisions of this Act or any regulation, license, or order issued under this Act—

(A) any officer, director, or employee of such person, or any natural person in control of such person who knowingly and willfully ordered, authorized, acquiesced in, or carried out the act or practice constituting the violation, and

(B) any agent of such person who knowingly and willfully carried out such act or practice, shall, upon conviction, be fined not more than $10,000, or imprisoned not more than five years, or both.

(2) RESTRICTION OF PAYMENT OF FINES.—A fine imposed under paragraph (1) on an individual for an act or practice constituting a violation may not be paid, directly or indirectly, by the person committing the violation itself.

(d) SEIZURE AND FORFEITURE OF AIRCRAFT.—Any aircraft used in connection with a violation of section 3 of this Act or any regulation, license, or order issued to carry out that section shall be subject to seizure by and forfeiture to the United States. All provisions of law relating to the seizure, forfeiture, and condemnation of articles for violations of the customs laws, the disposition of articles or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this subsection, insofar as such provisions of law are applicable and not consistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of the Treasury shall, for purposes of this subsection, be exercised or performed by the Secretary of Transportation or by such persons as the Secretary may designate.

SEC. 6 REGULATIONS.

The President may issue such regulations, licenses, and orders as are necessary to carry out this Act.

SEC. 7. DEFINITIONS.

For purposes of this Act—

(1) UNITED STATES.—The term "United States" includes the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(2) UNITED STATES PERSON.—The term "United States person" means any United States resident or national and any domestic concern (including any permanent domestic establishment of any foreign concern).

(3) SOUTH AFRICA.—The term "South Africa" includes the Republic of South Africa; any territory under the administration, legal or illegal, of South Africa; and the "bantustans" or "homelands", to which South African blacks are assigned on the basis of ethnic origin, including the Tanskei, Bophuthastswana, Venda, and Ciske.

(4) INVESTMENT IN SOUTH AFRICA.—A person makes or holds an investment in South Africa if that person—

(A) establishes or contributes funds or other resources (including making a loan or other extension of credit) for the establishment of a business enterprise in South Africa;

(B) otherwise invests funds in a business enterprise in South Africa, including—

(i) beneficially owning or controlling a share or interest in such a business enterprise;

(ii) beneficially owning or controlling a bond or other debt instrument issued by such a business enterprise;

(iii) making capital contributions in money or kind to such a business enterprise; and

(iv) making a loan or other extension of credit to such a business enterprise, or giving security for the debts of such a business enterprise; or

(C) controls a business enterprise in South Africa, in cases to which subparagraphs (A) and (B) do not apply.

(5) FUNDS.—The term "funds" means money or other resources.

(6) BUSINESS ENTERPRISE.—The term "business enterprise" means any organization, association, branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage; and such term includes the ownership of real estate.

(7) BRANCH.—The term "branch" means the operations or activities conducted by a person in a different location in its own name rather than through an incorporated entity.

(8) CONTROL.—A United States person shall be presumed to control a business enterprise in South Africa if—

(A) the business enterprise is operated by the United States person pursuant to the provisions of an exclusive management contract;

(B) a majority of the members of the board of directors of the business enterprise are also members of the comparable governing body of the United States person;

(C) the United States person has authority to appoint a majority of the members of the board of directors of the business enterprise; or

(D) the United States person has authority to appoint the chief operating officer of the business enterprise.

SEC. 8. APPLICABILITY TO EVASIONS OF ACT.

This Act shall apply to any United States person who undertakes or causes to be undertaken any transaction or activity with the intent to evade the provisions of this Act or any regulation, license, or order issued to carry out this Act.

SEC. 9. EFFECTIVE DATE.

The provisions of this Act shall take effect 180 days after the date of the enactment of this Act.

By Mr. GUNDERSON:

(Amendment in the nature of a substitute.)

—Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—GENERAL PROVISIONS

FINDINGS AND DECLARATIONS

SECTION 1. The Congress finds and declares that—

(a) the policy and practice of apartheid—

(1) deliberately separates millions of South African "migrant" workers from their families;

(2) denies meaningful, democratic participation in the political process to the majority of the South African population;

(3) consigns the mass of South African citizenry to lives of economic and educational deprivation;

(4) denies black citizens of South Africa the right to travel freely within their own country;

(5) leads to the arbitrary government confiscation of the private property legally owned by black South African nationals;

(6) tries to deprive many South African citizens of South African citizenship;

(b) the policy and practice of apartheid is repugnant to the moral and political values of democratic and free societies, and runs counter to United States policies to promote democratic governments throughout the world and respect for human rights; and

(c) it is the policy of the United States to promote peaceful change in South Africa through diplomatic means, but also, where necessary and appropriate, through the adoption of other measures, in conjunction with our allies, in order to reinforce United States opposition to apartheid.

DEFINITIONS

SEC. 2. As used in this Act—

(1) the term "national of the United States" means—

(A) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States; or

(B) a corporation, partnership, or other enterprise if—

(i) natural persons who are nationals of the United States own or control, directly or indirectly, more than 50 per centum of the outstanding voting securities;

(ii) natural persons who are nationals of the United States own or control, directly or indirectly 25 per centum or more of the voting securities, and natural persons of another nationality do not own or control as equal or larger percentage;

(iii) any natural person who is a national of the United States operates the corporation, partnership, or enterprise pursuant to the provisions of an exclusive management contract;

(iv) a majority of the members of the board of directors are also members of the comparable governing body of corporation or legal entity organized under the laws of the United States, any State or territory thereof, or the District of Columbia;

(v) natural persons who are nationals of the United States have authority to appoint the chief operating officer; and

(2) the term "South Africa" refers to the territory that constituted the Republic of South Africa on May 31, 1961.

SCHOLARSHIP FOR BLACK SOUTH AFRICANS

SEC. 3. Section 105(b) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(1) after "(b)"; and

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

"(2)(A) Beginning with the fiscal year 1986, and for each fiscal year thereafter, $15,000,000 of assistance provided under this section by the Administrator of the agency primarily responsible for administering this part of this Act shall be used to finance scholarships for black South Africans who are attending universities, colleges, and secondary schools in South Africa and who are selected in accordance with subparagraph (B). Of the funds available under the preceding sentence to carry out this subparagraph, not less than $5,000,000 shall be available only for assistance to full-time teachers or other educational professionals pursuing studies toward the improvement of their professional credentials.

"(B) Individuals for whom scholarships are financed under subparagraph (A) shall be selected by a national panel or by regional panels composed solely of members of the teaching profession appointed by the United States chief of diplomatic mission to South Africa. No such individual may be selected through any contract entered into with the agency primarily responsible for administering this part of this Act.".

HUMAN RIGHTS FUND

SEC. 4. Section 116(e)(2)(A) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "1984 and" and inserting in lieu thereof "1984,";

(2) by inserting after "1985" a comma and the following: "and $1,500,000 for the fiscal year 1986, and for each fiscal year thereafter"; and

(3) by adding at the end thereof the following: "Grants under this paragraph shall be made by the Assistant Secretary for Human Rights and Humanitarian Affairs.".

EXPANDING PARTICIPATION IN THE SOUTH AFRICAN ECONOMY

SEC. 5. (a) The Congress declares—

(1) that the denial under the apartheid laws of South Africa of the rights of South African blacks and other nonwhites to have the opportunity to participate equitably in the South African economy as managers or owners of, or professionals in, business enterprises, and

(2) the policy of confining South African blacks and other nonwhites to the status of employees in minority-dominated businesses is an affront to the values of a free society.

(b) The Congress hereby—

(1) applauds the commitment of nationals of the United States adhering to the principles set forth in section 10 to assure that South African blacks and other nonwhites are given assistance in gaining their rightful place in the South African economy; and

(2) urges the United States Government to assist in all appropriate ways the realization by South African blacks and other nonwhites of their rightful place in the South African economy.

(c) The Secretary of State and any other head of a department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable, in procuring goods or services, make affirmative efforts to assist business enterprises having more than 50 per centum beneficial ownership by South African blacks or other nonwhite South Africans.

OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 6. Section 237(a) of the Foreign Assistance Act of 1961 is amended—

(1) by striking out "(a) Insurance" and inserting in lieu thereof "(a)(1) Except as provided in paragraph (2), insurance"; and

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

"(2) Insurance, reinsurance, and guaranties of loans may be issued to cover an investment made in connection with a project in South Africa, notwithstanding the absence of an agreement with the Government of South Africa, if such investment is otherwise eligible under this title, except that—

"(A) the issuance of any such insurance, reinsurance, or guaranty shall only be made to promote joint ventures between business enterprises controlled or owned by South African blacks or other nonwhite South Africans and business enterprises controlled or owned by United States nationals; and

"(B) the national of the United States holds a minority interest or agrees to relinquish its majority interest during the course of the joint venture.".

EXPORT-IMPORT BANK OF THE UNITED STATES

SEC. 7. Section 2(b)(9) of the Export-Import Bank Act of 1945 is amended—

(1) by striking out "(9) In" and inserting in lieu thereof "(9)(A) Except as provided in subparagraph (B), in"; and

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

"(B) The Bank shall take active steps to encourage the use of its facilities to guarantee, insure, extend credit, or participate in the extension of credit to business enterprises in South Africa that are majority owned by South African blacks or other nonwhite South Africans. The certification requirement contained in clause (C) of subparagraphs (A) shall not apply to exports to or purchases from business enterprises which are majority owned by South African blacks or other nonwhite South Africans.".

LABOR PRACTICES OF THE UNITED STATES GOVERNMENT IN SOUTH AFRICA

SEC. 8. (a) It is the sense of the Congress that the labor practices used by the United States Government—

(1) for the direct hire of South Africans,

(2) for the reimbursement out of official residence funds of South Africans and employees of South African organizations for their employment services on behalf of the United States Government, and

(3) for the employment services of South Africans arranged by contract,

should represent the best of American labor practices and should serve as a model for the labor practices of nationals of the United States in South Africa.

(b) Notwithstanding any other law, the Secretary of State and any other head of a department or agency of the United States carrying out activities in South Africa shall promptly take the necessary steps to ensure that the labor practices applied to the employment services described in paragraphs (1) through (3) of subsection (a) are governed by the principles set forth in section 10.

EMPLOYMENT PRACTICES OF UNITED STATES NATIONALS IN SOUTH AFRICA

SEC. 9. (a) STATEMENT OF POLICY.—It is the sense of the Congress that any national of the United States who—

(1) has a branch or office in South Africa, or

(2) controls a business enterprise in South Africa, should implement, in the operation of such branch, office, or business enterprise, those principles relating to employment practices set forth in section 10.

(b) SANCTIONS.—

(1) APPLICABILITY.—The sanctions set forth in paragraph (2) shall apply to any national of the United States who—

(A) has a branch or office in South Africa, or

(B) controls a business enterprise in South Africa,

in which more than 20 people are employed, and who does not implement the principles set forth in section 202 in the operation of that business enterprise.

(2) SANCTIONS.—With respect to any national of the United States described in paragraph (1)—

(A) no department or agency of the United States may—

(i) enter into any contract with,

(ii) make any loan, issue any guaranty of a loan, or issue any insurance to,

(iii) provide any counseling on economic or political risks to, or

(iv) intercede with any foreign government or any national regarding the foreign investment or export marketing activities in any country of,

that national; and

(B) that national may not receive any credit or deduction under the Internal Revenue Code of 1954 for any income, war profits, or excess profits paid or accrued to South Africa.

(c) No department or agency of the United States may intercede with any foreign government or any national regarding the export marketing activities in any country of any national of the United States employing more than twenty persons in South Africa that is not implementing the principles relating to employment practices in South Africa set forth in section 10. No such national may make any new investment in the Republic of South Africa. The Secretary of State shall promulgate such regulations as are necessary to implement this section.

STATEMENT OF PRINCIPLES

SEC. 10. (a) The principles referred to in sections 8 and 9 of this Act are as follows:

(1) Desegregating the races in each employment facility, including—

(A) removing all race designation signs;

(B) desegregating all eating, rest, and work facilities; and

(C) terminating all regulations which are based on racial discrimination.

(2) Providing equal employment for all employees, including—

(A) assuring that any health, accident, or death benefit plans that are established are nondiscriminatory and open to all employees, on an equitable basis; and

(B) implementing equal and nondiscriminatory terms and conditions of employment for all employees, and abolishing job reservations, job fragmentation, apprenticeship

restrictions for blacks and other nonwhites, and differential employment criteria, which discriminate on the basis of race or ethnic origin.

(3) Establishing equally pay for all employees doing equal work, including—

(A) establishing and implementing, as soon as possible, a wage and salary structure which is applied equal to all employees, regardless of race, who are engaged in equal work;

(B) reviewing the distinction between hourly and salaried job classifications, and establishing and implementing an equitable and unified system of job classifications which takes into account such review; and

(C) eliminating inequities in seniority and ingrade benefits so that all employees, regardless of race, who perform similar jobs are eligible for the same seniority and ingrade benefits.

(4) Establishing a minimum wage and salary structure based on a cost-of-living index which takes into account the needs of employees and their families.

(5) Increasing, by appropriate means, the number of blacks and other nonwhites in managerial, supervisory, administrative, clerical, and technical jobs for the purpose of significantly increasing the representation of blacks and other nonwhites in such jobs, including—

(A) developing training programs that will prepare substantial numbers of blacks and other nonwhites for such jobs as soon as possible, including—

(i) creating on-the-job training programs and facilities to assist employees to advance to higher paying jobs requiring greater skills;

(B) establishing procedures to assess, identify, and actively recruit employees with potential for further advancement;

(C) identifying blacks and other nonwhites with high management potential and enrolling them in accelerated management programs;

(D) establishing and expanding programs to enable employees to further their education and skills at recognized education facilities; and

(E) establishing timetables to carry out this paragraph.

(6) Taking reasonable steps to improve the quality of employees' lives outside the work environment with respect to housing, transportation, schooling, recreation, and health, including—

(A) providing assistance to black and other nonwhite employees for housing, health care, transportation, and recreation either through the provision of facilities or services or providing financial assistance to employees for such purposes, including the expansion or creation of in-house medical facilities or other medical programs to improve medical care for black and other nonwhite employees and their dependents; and

(B) participating in the development of programs that address the education needs of employees, their dependents, and the local community.

(7) Recognizing labor unions and implementing fair labor practices, including—

(A) recognizing the right of all employees, regardless of racial or other distinctions, to self-organization and to form, join, or assist labor organizations, freely and without penalty or reprisal, and recognizing the right to refrain from any such activity;

(B) refraining from—

(i) interfering with, restraining, or coercing employees in the exercise of their rights of self-organization under this paragraph,

(ii) dominating or interfering with the formation or administration of any labor organization or sponsoring, controlling, or contributing financial or other assistance to it,

(iii) encouraging or discouraging membership in any labor organization by discrimination in regard to hiring, tenure, promotion, or other condition of employment,

(iv) discharging or otherwise disciplining or discriminating against any employee who has exercised any rights of self-organization under this paragraph, and

(C) allowing employees to exercise rights of self-organization, including solicitation of fellow employees during nonworking hours, allowing distribution and posting of union literature by employees during nonworking hours in nonworking areas, and allowing reasonable access to labor organization representatives to communicate with employees on employer premises at reasonable times;

(D) allowing employee representatives to meet with employer representatives during working hours without loss of pay for purposes of collective bargaining, negotiation of agreements, and representation of employee grievances;

(E) regularly informing employees that it is company policy to consult and bargain collectively with organizations which are freely elected by the employees to represent them; and

(F) utilizing impartial persons mutually agreed upon by employer and employee representatives to resolve disputes concerning election of representatives, negotiation of agreements or grievances arising thereunder, or any other matters arising under this paragraph.

(b) The Secretary of State may issue guidelines and criteria to assist persons who are or may be subject to this section in complying with the principles set forth in subsection (a) of this section. The Secretary may, upon request, give an advisory opinion to any person who is or may be subject to this section as to whether that person is subject to this section or would be considered to be in compliance with the principles set forth in subsection (a).

(c) The Secretary of State may promulgate such regulations as the Secretary may deem necessary to implement the provisions of this Act. The Secretary may conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take dispositions, and require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation. The Secretary may require all persons referred to in subsection (a) to register with the Department of State.

(d) Any person who willfully violates any rule or regulation issued under this section or who willfully, in a registration statement or report required by the Secretary, makes any untrue statement of a material fact or omits to state a material fact required to be stated therein or necessary to make the statements therein not misleading, shall upon conviction be fined not more than $1,000,000 or imprisoned not more than two years, or both.

(e) In carrying out functions under this section, the President is authorized to exercise the same powers concerning violations and enforcement which are conferred upon departments, agencies and officials by subsections (c), (d), (e), and (f) of section 11 of the Export Administration Act of 1979, and by subsections (a) and (c) of section 12 of such Act, subject to the same terms and conditions as are applicable to such powers under such Act. Nothing in this subsection shall be construed as authorizing the withholding of information from the Congress.

(f) Notwithstanding any other provision of law, the Secretary may enter into contacts with one or more private organizations or individuals to assist the Secretary on implementing this section.

POLICY ON ECONOMIC SANCTIONS

SEC. 11. (a) It shall be the policy of the United States to impose economic sanctions against the Government of South Africa if, within two years of the date of enactment of this section, significant progress has not been made toward ending the policy of apartheid.

(b) The President may waive sanctions contained in subsection (a) of this section for a period of not more than 12 months if—

(1) the President determines that one or more of the conditions as set forth in subsection (d) of this section are met,

(2) the President submits that determination to the Congress, and

(3) a joint resolution is enacted approving the President's determination.

(c) The President may waive the sanctions contained in subsection (a) of this section for an additional 6-month period if, before each such waiver—

(1) the President determines that an additional condition set forth in subsection (d) has been met since the preceding waiver under this subsection became effective,

(2) the President submits that determination to the Congress, and

(3) a joint resolution is enacted approving the President's determination.

(d) STATEMENT OF CONDITIONS.—The conditions referred to in subsections (b) and (c) are the following:

(1) FAMILY HOUSING NEAR PLACE OF EMPLOYMENT.—The Government of South Africa has eliminated the system which makes it impossible for black employees and their families to be housed in family accommodations near the place of employment.

(2) RIGHT TO SEEK EMPLOYMENT.—The Government of South Africa has eliminated all policies that restrict the rights of black people to seek employment in South Africa and to live wherever they find employment in South Africa.

(3) ELIMINATING DENATIONALIZATION.—The Government of South Africa has eliminated all policies that make distinctions between the South African nationality of blacks and whites.

(4) ELIMINATING REMOVALS.—The Government of South Africa has eliminated removals of black populations from certain geographic areas on account of race or ethnic origin.

(5) ELIMINATING RESIDENCE RESTRICTIONS.—The Government of South Africa has eliminated all residence restrictions based on race or ethnic origin.

(6) NEGOTIATIONS FOR NEW POLITICAL SYSTEM.—The Government of South Africa has entered into meaningful negotiations with truly representative leaders of the black population for a new political system providing for the full national participation of all the people of South Africa in the social, political, and economic life in that country and an end to discrimination based on race or ethnic origin.

(7) SETTLEMENT OF NAMIBIA.—An internationally recognized settlement for Namibia has been achieved.

(8) FREEING POLITICAL PRISONERS.—The Government of South Africa has freed all political prisoners.

REPORT OF THE PRESIDENT

SEC. 12. (a) The President shall prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate March 1, 1987 and every six months thereafter, a report on the extent to which significant progress has been made toward ending the system of apartheid, including—

(1) a detailed assessment of the extent to which the Government of South Africa has made progress in—

(A) housing black workers with their families;

(B) abolishing the pass laws which prevent blacks from moving freely into the cities;

(C) terminating the migrant labor system;

(D) allowing unrestricted labor union rights for all; and

(E) increasing local investment in black education and training;

(2) a statement of any conclusions drawn by the Inter-Allied Working Group on South Africa;

(3) a determination by the President as to whether significant progress has been made in achieving the purposes described in clauses (A) through (E) of paragraph (1); and

(4) if the President determines under paragraph (3) that significant progress has not been made, a recommendation as to which of the following sanctions should be imposed;

(A) A ban on new commercial investment in South Africa.

(B) A ban on new bank loans to the Government of South Africa.

(C) A ban on the importatin of South African Krugerrands.

(D) A ban on the sale of computers to the central Government of South Africa.

TITLE II—UNITED STATES COMMISSION ON SOUTH AFRICA

SEC. 201. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the "United States Commission on South Africa" (hereinafter in this title referred to as the "Commission").

SEC. 202. DUTIES OF COMMISSION.

(a) STUDY AND REPORT ON PROGRESS AGAINST APARTHEID.—The Commission shall conduct an ongoing study of, and shall report to the Congress on, the progress that the Government of South Africa has made—

(1) in eliminating the system of apartheid; and

(2) toward the full participation of blacks and other nonwhites in the social, political, and economic life in South Africa.

The Commission shall also study the economic and political relations between the United States and South Africa.

(b) FOCUS OF STUDY.—In carrying out subsection (a), the Commission shall—

(1) with respect to the progress toward eliminating apartheid, pay particular attention to the termination of—

(A) the Group Areas Act;

(B) the Pass Laws;

(C) the Influx Control Act;

(D) the Mixed Marriages Act;

(E) the Immorality Act;

(F) the homelands policy; and

(G) the detention of persons without due process of law; and

(2) with respect to the goals referred to in subsection (a)(2), pay particular attention to the involvement of recognized representatives of the black and nonwhite population in South Africa in achieving these goals, including the convening, as soon as possible, by the Government of South Africa of a national congress, composed of all pro-democratic groups in South Africa, to establish a timetable for granting full citizenship to blacks and other nonwhites in South Africa.

(c) SCHEDULE OF STUDY AND REPORTS.—

(1) STUDY.—The Commission shall conduct the study under subsection (a) during the 2-year period beginning on the date of the enactment of this Act.

(2) REPORTS.—The Commission shall submit in terim reports to the Congress at the end of each 6-month period beginning on the date of the enactment of this Act. Not later than the end of the 2-year period beginning on the date of the enactment of this Act, the Commission shall submit a final report to the Congress. The final report shall contain—

(A) a determination by the Commission of whether the Government of South Africa has made substantial progress toward the goals set forth in paragraphs (1) and (2) of subsection (a), and

(B) if the Commission determines under subparagraph (A) that substantial progress has not been made, a recommendation as to which of the following should be imposed:

(i) A ban on new commercial investment in South Africa.

(ii) A ban on new bank loans to the Government of South Africa.

(iii) A ban of the sale of computers to the Government of South Africa.

(iv) Changes in diplomatic relations with South Africa.

SEC. 203. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Commission shall be composed of 15 members, as follows:

(A) The chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives.

(B) The chairman and ranking minority member of the Committee on Foreign Relations of the Senate.

(C) The chairman and ranking minority member of the Subcommittee on Africa of the Committee on Foreign Affairs of the House of Representatives.

(D) The chairman and ranking minority member of the Subcommittee on Africa of the Committee on Foreign Relations of the Senate.

(E) Seven members appointed by the President from among persons knowledgeable in South African affairs, as follows:

(i) One member shall be an officer of the Department of State.

(ii) One member shall be an officer of the Department of Commerce.

(iii) One member shall be an officer of the Department of the Treasury.

(iv) Four members shall be appointed from among persons who are not officers or employees of any government who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

(2) DESIGNATION OF SUBSTITUTES.—If any member referred to in paragraph (1)(A) or (1)(B) is the same individual as a member referred to in paragraph (1)(C) or (1)(D), then the individual shall designate another member of the Committee on Foreign Affairs or Foreign Relations, as the case may be, to serve as a member of the Commission.

(3) FILING OF VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a Member of the Congress leaves that office, or if any member of the Commission who was appointed from persons who are not officers or employees of any government becomes an officer or employee of a government, he or she may continue as a member of the Commission for not longer than the 60-day period beginning on the date he or she leaves that office or becomes such an officer or employee, as the case may be.

(c) TERMS.—Members shall be appointed for the life of the Commission.

(d) BASIC PAY.—

(1) FOR NON-GOVERNMENT EMPLOYEES.—Except as provided in paragraph (2), members of the Commission shall serve without pay, but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, to the same extent as employees serving intermittently in the Government Service are allowed such expenses under section 5703 of title 5, United States Code.

(2) FOR GOVERNMENT EMPLOYEES.—Members of the Commission who are full-time officers or employees of the United States or Members of the Congress shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(e) QUORUM.—Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRMAN.—The Chairman and Vice Chairman of the Commission shall be elected by the members of the Commission.

(g) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

SEC. 204. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—The Commission may appoint and fix the pay of such additional personnel as it considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapters III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3209(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the minimum annual rate of basic pay payable for GS-18 of the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

SEC. 205. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon the request of the Chairman or Vice Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(g) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Commission. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) REFUSAL TO OBEY A SUBPOENA.—If a person issued a subpoena under paragraph (1) refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) SERVING OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) VENUE OF PROCESS.—All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(h) IMMUNITY.—No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to a subpoena, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture by reason of any transaction, matter, or thing concerning which such individual is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committee in so testifying.

SEC. 206. Termination.

The Commission shall cease to exist 90 days after submitting its final report pursuant to section 412(c).

By Mr. RICHARDSON:

—Page , after line , insert the following new section:

SEC. 15. BAN ON IMPORTING URANIUM AND COAL FROM SOUTH AFRICA AND NAMIBIA.

Notwithstanding any other provision of law and except as otherwise provided in this Act, the following products of South Africa and Namibia may not be imported into the United States: coal and uranium ore.

Page 5, line 2, strike out "sections 4 and 5" and insert in lieu thereof "section 4, 5, and 15"; and line 12, strike out "sections 4 and 5" and insert in lieu thereof "sections 4, 5, 15".

Page 12, line 25, strike out "and".

Page 13, line 1, insert ", and on importing coal and uranium ore from South Africa" immediately before the period.

By Mr. SILJANDER:

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "South Africa Act of 1985".

SEC. 2. DECLARATION OF POLICY AND STATEMENT OF FINDING.

(a) IN GENERAL.—The Congress declares that it is the policy of the United States to be a positive influence in bringing an end to the apartheid system of racial discrimination in South Africa.

(b) FINDINGS.—The Congress finds that the policy and practice of apartheid—

(1) separates millions of workers from their families;

(2) is based on a form of rule in South Africa by a minority only, which denies political rights to the majority;

(3) consigns the masses of people living under it to lives of poverty;

(4) denies nonwhite nationals of South Africa the right to travel freely within their own country;

(5) provides economic privileges for some by denying basic freedoms for others;

(6) results in forceable removals of peoples from their homes against their wills;

(7) denies the majority of the people of South Africa their basic human rights;

(8) has damaged the status and reputation of the Republic of South Africa as a civilized nation; and

(9) has contributed significantly to a general climate of instability throughout southern Africa.

(c) DECLARATIONS OF POLICY.—The Congress makes the following declarations:

(1) The policy and practice of apartheid runs counter to the principles of civilized nations and debases human dignity, and is repugnant to the values of the United States of America. The Congress consequently reaffirms that it is the continuing policy of the United States Government to oppose the practice of apartheid by the Govenment of South Africa, especially through diplomatic means, and, when necessary and appropriate, through the enactment and implementation of laws intended to reinforce United States policy with respect to apartheid.

(2) It is the policy of the United States to promote change in South Africa through peaceful means. The Congress directs the Secretary of State to consider urgently the best possible means to use United States influence to bring an end to this morally repugnant practice in a nonviolent manner, recognizing that this objective will best be achieved through cooperative action on the part of all nations and through the exercise of political rights by all of the people of South Africa.

(3) The Congress recognizes that the objectives of peaceful change in South Africa and the exercise of political rights by all people in that country can be served if United States influence is directed toward building institutions that will enable the South African people to challenge the inequities of the apartheid system. To this end, the Congress declares it is the policy of the United States to support an independent and impartial judicial system in South Africa. The Congress declares further that it is the policy of the United States to support free trade unions for South African workers and to encourage the full participation of all the people of South Africa in the social, political, and economic life in that country.

(4) The Congress recognizes that the objectives of peaceful change in South Africa cannot be achieved unless representatives of all segments of the population in South Africa are convened for the purpose of making the necessary changes to establish a fully representative democratic system.

TITLE I—UNITED STATES COMMISSION ON SOUTH AFRICA

SEC. 101. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the "United States Commission on South Africa" (hereinafter in this title referred to as the "Commission").

SEC. 102. DUTIES OF COMMISSION.

(a) STUDY AND REPORT ON PROGRESS AGAINST APARTHEID.—The Commission shall conduct an ongoing study of, and shall report to the Congress on, the progress that the Government of South Africa has made—

(1) in eliminating the system of apartheid; and

(2) toward the full participation of blacks and other nonwhites in the social, political, and economic life in South Africa.

The Commission shall also study the economic and political relations between the United States and South Africa.

(b) FOCUS OF STUDY.—In carrying out subsection (a), the Commission shall—

(1) with respect to the progress toward eliminating apartheid, pay particular attention to the termination of—

(A) the Group Areas Act;

(B) the Pass Laws;

(C) the Influx Control Act;

(D) the Mixed Marriages Act;

(E) the Immorality Act;

(F) the homelands policy; and

(G) the detention of persons without due process of law; and

(2) with respect to the goals referred to in subsection (a)(2), pay particular attention to the involvement of recognized representatives of the black and nonwhite population in South Africa in achieving these goals, including the convening, as soon as possible, by the Government of South Africa of a national congress, composed of all pro-democratic groups in South Africa, to establish a timetable for granting full citizenship to blacks and other nonwhites in South Africa.

(c) SCHEDULE OF STUDY AND REPORTS.—

(1) STUDY.—The Commission shall conduct the study under subsection (a) during the 3-year period beginning on the date of the enactment of this Act.

(2) REPORTS.—The Commission shall submit interim reports to the Congress at the end of each 6-month period beginning on the date of the enactment of this Act.

Not later than the end of the 3-year period beginning on the date of the enactment of this Act, the Commission shall submit a final report to the Congress. The final report shall contain—

(A) a determination by the Commission of whether the Government of South Africa has made substantial progress toward the goals set forth in paragraphs (1) and (2) of subsection (a), and

(B) if the Commission determines under subparagraph (A) that substantial progress has not been made, a recommendation as to which of the following should be imposed:

(i) A ban on new commercial investment in South Africa.

(ii) A ban on new bank loans to the Government of South Africa.

(iii) A ban of the sale of computers to the Government of South Africa.

(iv) Changes in diplomatic relations with South Africa.

SEC. 103. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Commission shall be composed of 15 members, as follows:

(A) The chairman and ranking minority member of the Committee on Foreign Affairs of the House of Representatives.

(B) The chairman and ranking minority member of the Committee on Foreign Relations of the Senate.

(C) The chairman and ranking minority member of the Subcommittee on Africa of the Committee on Foreign Affairs of the House of Representatives.

(D) The chairman and ranking minority member of the Subcommittee on Africa of the Committee on Foreign Relations of the Senate.

(E) Seven members appointed by the President from among persons knowledgeable in South African affairs, as follows:

(i) One member shall be an officer of the Department of State.

(ii) One member shall be an officer of the Department of Commerce.

(iii) One member shall be an officer of the Department of the Treasury.

(vi) Four members shall be appointed from among persons who are not officers or employees of any government who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

(2) DESIGNATION OF SUBSTITUTES.—If any member referred to in paragraph (1)(A) or (1)(B) is the same individual as a member referred to in paragraph (1)(C) or (1)(D), then the individual shall designate another member of the Committee on Foreign Affairs or Foreign Relations, as the case may be, to serve as a member of the Commission.

(3) FILLING OF VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a Member of the Congress leaves that office, or if any member of the Commission who was appointed from persons who are not officers or employees of any government becomes an officer or employee of a government, he or she may continue as a member of the Commission for not longer than the 60-day period beginning on the date he or she leaves that office or becomes such an officer or employee, as the case may be.

(c) TERMS.—Members shall be appointed for the life of the Commission.

(d) BASIC PAY.—

(1) FOR NON-GOVERNMENT EMPLOYEES.—Except as provided in paragraph (2), members of the Commission shall serve without pay, but shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, to the same extent as employees serving intermittently in the Government Service are allowed such expenses under section 5703 of title 5, United States Code.

(2) FOR GOVERNMENT EMPLOYEES.—Members of the Commission who are full-time officers or employees of the United States or Members of the Congress shall receive no additional pay, allowances, or benefits by reason of their service on the Commission.

(e) QUORUM.—Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRMAN.—The Chairman and Vice Chairman of the Commission shall be elected by the members of the Commission.

(g) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

SEC. 104. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—The Commission may appoint and fix the pay of such additional personnel as it considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the minimum annual rate of basic pay payable for GS-18 of the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

SEC. 105. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this title, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon the request of the Chairman or Vice Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(g) SUBPOENA POWER.—

(1) IN GENERAL.—The Commission may issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Commission. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) REFUSAL TO OBEY A SUBPOENA.—If a person issued a subpoena under paragraph (1) refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) SERVING OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) VENUE OF PROCESS.—All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

(h) IMMUNITY.—No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to a subpoena, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture by reason of any transaction, matter, or thing concerning which such individual is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

SEC. 106. TERMINATION.

The Commission shall cease to exist 90 days after submitting its final report pursuant to section 412(c).

TITLE II—FAIR EMPLOYMENT PRINCIPLES

SEC. 201. IMPLEMENTATION OF FAIR EMPLOYMENT PRINCIPLES.

(a) STATEMENT OF POLICY.—It is the sense of the Congress that any person who—

(1) has a branch or office in South Africa, or

(2) controls a business enterprise in South Africa, should implement, in the operation of such branch, office, or business enterprise, those principles relating to employment practices set forth in section 20'..

(b) SANCTIONS.—

(1) APPLICABILITY.—The sanctions set forth in paragraph (2) shall apply to any person who—

(A) has a branch or office in South Africa, or

(B) controls a business enterprise in South Africa,

in which more than 20 people are employed, and who does not implement the principles set forth in section 202 in the operation of that business enterprise.

(2) SANCTIONS.—With respect to any person described in paragraph (1)—

(A) no department or agency of the United States may—

(i) enter into any contract with,

(ii) make any loan, issue any guaranty of a loan, or issue any insurance to,

(iii) provide any counseling on economic or political risks to, or

(iv) intercede with any foreign government or any national regarding the foreign investment or export marketing activities in any country of,

that person; and

(B) that person may not receive any credit or deduction under the Internal Revenue Code of 1954 for any income, war profits, or excess profits paid or accrued to South Africa.

SEC. 202. STATEMENT OF PRINCIPLES.

The principles referred to in section 201 are as follows:

(1) DESEGREGATING THE RACES.—Desegregating the races in each employment facility, including—

(A) removing all race designation signs;

(B) desegregating all eating, rest, and work facilities; and

(C) terminating all regulations which are based on racial discrimination.

(2) EQUAL EMPLOYMENT.—Providing equal employment for all employees without regard to race or ethnic origin, including—

(A) assuring that any health, accident, or death benefit plans that are established are nondiscriminatory and open to all employees without regard to race or ethnic origin; and

(B)(i) implementing equal and nondiscriminatory terms and conditions of employment for all employees, and (ii) abolishing job reservations, job fragmentation, apprenticeship restrictions for blacks and other nonwhites, and differential employment criteria, which discriminate on the basis of race or ethnic origin.

(3) EQUITABLE PAY SYSTEM.—Assuring that the pay system is equitably applied to all employees without regard to race or ethnic origin, including—

(A) assuring that any wage and salary structure that is implemented is applied equally to all employees without regard to race or ethnic origin;

(B) eliminating any distinctions between hourly and salaried job classifications on the basis of race or ethnic origin; and

(C) eliminating any inequities in seniority and ingrade benefits which are based upon race or ethnic origin.

(4) MINIMUM WAGE AND SALARY STRUCTURE.—Establishing a minimum wage and salary structure based on the appropriate local minimum economic level which takes into account the needs of employees and their families.

(5) INCREASING BLACKS AND OTHER NONWHITES IN CERTAIN JOBS.—Increasing, by appropriate means, the number of blacks and other nonwhites in managerial, supervisory, administrative, clerical, and technical jobs for the purpose of significantly increasing the representation of blacks and other nonwhites in such jobs, including—

(A) developing training programs that will prepare substantial numbers of blacks and other nonwhites for such jobs as soon as possible, including—

(i) expanding existing programs and forming new programs to train, upgrade, and improve the skills of all categories of employees, and

(ii) creating on-the-job training programs and facilities to assist employees to advance to higher paying jobs requiring greater skills;

(B) establishing procedures to assess, identify, and actively recruit employees with potential for further advancement;

(C) identifying blacks and other nonwhites with high management potential and enrolling them in accelerated management programs;

(D) establishing and expanding programs to enable employees to further their education and skills at recognized education facilities; and

(E) establishing timetables to carry out this paragraph.

(6) IMPROVING LIFE OUTSIDE THE WORKPLACE.—Taking reasonable steps to improve the quality of employees' lives outside the work environment with respect to housing, transportation, schooling, recreation, and health, including—

(A) providing assistance to black and other nonwhite employees for housing, health care, transportation, and recreation either through providing facilities or services or providing financial assistance to employees for such purposes, including the expansion or creation of in-house medical facilities or other medical programs to improve medical care for black and other nonwhite employees and their dependents; and

(B) participating in the development of programs that address the education needs of employees, their dependents, and the local community.

(7) FAIR LABOR PRACTICES.—Recognizing labor unions and implementing fair labor practices, including—

(A) recognizing the right of all employees, regardless of racial or other distinctions, to self-organization and to form, join, or assist labor organizations, freely and without penalty or reprisal, and recognizing the right to refrain from any such activity;

(B) refraining from—

(i) interfering with, restraining, or coercing employees in the exercise of their rights of self-organization under this paragraph,

(ii) dominating or interfering with the formation or administration of any labor organization, or sponsoring, controlling, or contributing financial or other assistance to it,

(iii) encouraging or discouraging membership in any labor organization by discrimination in regard to hiring, tenure, promotion, or other condition of employment,

(iv) discharging or otherwise disciplining or discriminating against any employee who has exercised any rights of self-organization under this paragraph, and

(v) refusing to bargain collectively with any organization freely chosen by employees to represent them;

(C)(i) allowing employees to exercise rights of self-organization, including solicitation of fellow employees during nonworking hours, (ii) allowing distribution and posting of union literature by employees during nonworking hours in nonworking areas, and (iii) allowing reasonable access to labor organization representatives to communicate with employees on employer premises at reasonable times;

(D) allowing employee representatives to meet with employer representatives during working hours without loss of pay for purposes of collective bargaining, negotiation of agreements, and representation of employee grievances;

(E) regularly informing employees that it is company policy to consult and bargain collectively with organizations which are freely elected by the employees to represent them; and

(F) utilizing impartial persons mutually agreed upon by employer and employee representatives to resolve disputes concerning election of representatives, negotiation of agreements or grievances arising thereunder, or any other matters arising under this paragraph.

(8) INCREASED ACTIVITIES OUTSIDE THE WORKPLACE.—Increasing the dimension of activities outside the workplace, including—

(A) supporting the unrestricted rights of businesses owned by blacks or other nonwhites to locate in the urban areas of South Africa;

(B) attempting to influence other companies in South Africa to implement equal rights principles;

(C) supporting the freedom of mobility of black and other nonwhite employees to seek employment opportunities wherever they exist, and making possible provisions for adequate housing for families of employees near the place of employment; and

(D) supporting the termination of all apartheid laws.

SEC. 203. GUIDELINES.

The Secretary may issue guidelines and criteria to assist persons who are or may be subject to this title in complying with the principles set forth in section 202. The Secretary may, upon request, give an advisory opinion to any person who is or may be subject to this title as to whether that person is subject to this title or would be considered to be in compliance with the principles set forth in section 202.

SEC. 204. ENFORCEMENT PROVISIONS.

(a) AUTHORITY OF THE SECRETARY.—The Secretary shall take the necessary steps to ensure compliance with the provisions of this title and any regulations, licenses, and orders issued to carry out this title. In ensuring such compliance, the Secretary shall establish mechanisms to monitor compliance with this title and such regulations, licenses, and orders, including onsite monitoring, at least once in every 2-year period, of each person subject to section 201(b) who files a report under subsection (b) of this section. In ensuring such compliance, the Secretary may conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation.

(b) REPORTS BY PERSONS SUBJECT TO SECTION 201.—Each person subject to section 201(b) shall submit to the Secretary—

(1) a detailed and fully documented annual report on the compliance of that person with the principles set forth in section 202, and

(2) such other information as the Secretary considers necessary.

(c) DETERMINATIONS OF COMPLIANCE.—The Secretary shall, within 90 days after giving notice and an opportunity for a hearing to each person subject to section 201(b) who files a report under subsection (b) of this section, make a determination with respect to the compliance of that person with the employment principles set forth in section

202 and any regulations issued to carry out that section.

(d) APPLICABILITY OF SECTION 201(b).—The sanctions set forth in section 201(b)(2) shall apply to any person—

(1) who fails to file the reports required by subsection (b) of this section, or

(2) with respect to whom the Secretary makes a determination under subsection (c) or (f) of this section either that the person is not in compliance with the employment principles set forth in section 202 (or any regulation issued to carry out that section), or that such compliance cannot be established on account of a failure to provide information to the Secretary or on account of the provision of false information to the Secretary.

(e) LIST OF PERSONS IN COMPLIANCE AND NONCOMPLIANCE.—The Secretary shall issue a list of all persons with respect to whom determinations are made under subsection (c) and redeterminations are made under subsection (f), and what the determinations and redeterminations are. The Secretary shall distribute the list to all departments and agencies of the Federal Government.

(f) REDETERMINATIONS.—

(1) IN GENERAL.—With respect to each person concerning whom a determination is made under subsection (c), the Secretary shall, at least once in every 2-year period, review and, in accordance with subsection (c), make a redetermination with respect to the compliance of that person with the employment principles set forth in section 202 and any regulations issued to carry out that section.

(2) UPON REQUEST.—In the case of any person with respect to whom the Secretary makes a determination under subsection (c) or paragraph (1) either that—

(A) the person is not in compliance with the employment principles set forth in section 202 (or any regulations issued to carry out that section), or

(B) such compliance cannot be established on account of a failure to provide information to the Secretary or on account of the provision of false information to the Secretary,

the Secretary shall, upon the request of that person and after giving that person an opportunity for a hearing, review and redetermine that person's compliance within 60 days after that person files the first annual report under subsection (b) after the negative determination is made.

(g) JUDICIAL REVIEW OF DETERMINATIONS.—Any person aggrieved by a determination or redetermination of the Secretary under subsection (c) or (f) may seek judicial review of that determination or redetermination in accordance with the provisions of chapter 7 of title 5, United States Code.

(h) REPORT TO CONGRESS.—The Secretary shall submit an annual report to the Congress on the compliance of those persons subject to section 201(b) with the employment principles set forth in section 202.

SEC. 205. REGULATIONS.

The Secretary shall, not later than 60 days after the date of the enactment of this Act, issue such regulations as are necessary to carry out this title. The regulations shall include dates by which persons subject to section 201(b) must comply with the provisions of this title, except that the date for compliance with all the provisions of this title shall be not later than 1 year after the date of the enactment of this Act.

SEC. 206. WAIVERS.

The President may waive the requirements of this title with respect to any person if the waiver is necessary to protect the national security of the United States. The President shall publish each waiver in the Federal Register and shall submit each waiver and the justification for the waiver to the Congress.

SEC. 207. DEFINITIONS.

For purposes of this title—

(1) PERSON.—The term "person" means any individual, branch, partnership, associated group, association, estate, trust, corporation, or other organization, and any government (including a foreign government, the United States Government, a State or local government, and any agency, corporation, financial institution, or other entity or instrumentality of any such government, including a government-sponsored agency).

(2) CONTROL.—A person shall be presumed to control a business enterprise if—

(A) the person beneficially owns or controls (whether directly or indirectly) more than 50 percent of the outstanding voting securities of the business enterprise;

(B) the person beneficially owns or controls (whether directly or indirectly) 25 percent or more of the voting securities of the business enterprise, if no other person owns or controls (whether directly or indirectly) an equal or larger percentage;

(C) the business enterprise is operated by the person pursuant to the provisions of an exclusive management contract;

(D) a majority of the members of the board of directors of the business enterprise are also members of the comparable governing body of the person;

(E) the person has authority to appoint a majority of the members of the board of directors of the business enterprise; or

(F) the person has authority to appoint the chief operating officer of the business enterprise.

(3) BUSINESS ENTERPRISE.—The term "business enterprise" means any organization, association, branch, or venture which exists for profitmaking purposes or to otherwise secure economic advantage.

(4) BRANCH.—The term "branch" means the operations or activities conducted by a person in a different location in its own name rather than through a separate incorporated entity.

SEC. 208. APPLICABILITY TO EVASIONS OF TITLE.

This title and the regulations issued to carry out this title shall apply to any person who undertakes or causes to be undertaken any transaction or activity with the intent to evade this title or such regulations.

TITLE III—ADDITIONAL MEASURES REGARDING SOUTH AFRICA

SEC. 301. HUMAN RIGHTS FUND.

Section 116(e)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 215ln) is amended—

(1) in subparagraph (A)—

(A) by striking out "1984 and" and inserting in lieu thereof "1984,";

(B) by inserting after "1985" the following: ", and $2,000,000 for the fiscal year 1986 and for each fiscal year thereafter"; and

(C) by adding at the end thereof the following: "Grants under this paragraph shall be made by the Assistant Secretary for Human Rights and Humanitarian Affairs."; and

(2) by striking out subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

SEC. 302. NATIONAL ENDOWMENT FOR DEMOCRACY.

In addition to any other amounts made available to the National Endowment for Democracy for the fiscal years 1986 and 1987, there is authorized to be appropriated for each of those fiscal years $1,500,000 for private enterprise and free labor union development in the nonwhite communities in South Africa. Of the amounts authorized by the preceding sentence—

(1) $500,000 for each such fiscal year shall be for the Free Trade Union Institute; and

(2) $500,000 for each such fiscal year shall be for the Center for International Private Enterprise.

SEC. 303. SCHOLARSHIPS FOR BLACK SOUTH AFRICANS.

Section 105(b) of the Foreign Assistance Act of 1961 is amended—

(1) by inserting "(1)" after "(b)"; and

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

"(2) Beginning with the fiscal year 1986, and for each fiscal year thereafter, $15,000,000 of assistance provided under this section shall be used to finance scholarships for black South Africans who are attending universities, colleges, and secondary schools in South Africa. Of the funds available under the preceding sentence to carry out this paragraph, not less than $5,000,000 shall be available only for assistance to full-time teachers or other educational professionals pursuing studies towards the improvement of their professional credentials.".

SEC. 304. OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) ELIGIBILITY OF CERTAIN PROJECTS IN SOUTH AFRICA.—Section 237(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2197(a)) is amended—

(1) by striking out "(a) Insurance" and inserting in lieu thereof "(a)(1) Except as provided in paragraph (2), insurance"; and

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

"(2) Insurance, reinsurance, and guaranties of loans may be issued to cover an investment made in connection with a project in South Africa, notwithstanding the absence of an agreement with the Government of South Africa, except that—

"(A) the issuance of any such insurance, reinsurance, or guaranty shall only be made to promote joint ventures between business enterprises controlled or owned by South African blacks or other nonwhite South Africans and business enterprises controlled or owned by United States nationals; and

"(B) with respect to such a joint venture, the national or nationals of the United States hold a minority interest or agree to relinquish its majority interest during the course of the joint venture.".

(b) NATIONAL OF THE UNITED STATES DEFINED.—Section 238 of the Foreign Assistance Act of 1961 (22 U.S.C. 2198) is amended—

(1) in subsection (c) by striking out "and" at the end thereof;

(2) in subsection (d) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(e) the term "national of the United States" means—

"(1) a natural person who is a citizen of the United States or who owes permanent allegiance to the United States; or

"(2) a corporation, partnership, or other enterprise if—

"(A) natural persons who are nationals of the United States own or control, directly or

indirectly, more than 50 percent of the outstanding voting securities;

"(B) natural persons who are nationals of the United States own or control, directly or indirectly, 25 percent or more of the voting securities, and natural persons of another nationality do not own or control an equal or larger percentage;

"(C) any natural person who is a national of the United States operates the corporation, partnership, or enterprise pursuant to the provisions of an exclusive management contract;

"(D) a majority of the members of the board of directors are also members of the comparable governing body of a corporation or legal entity organized under the laws of the United States, any State or territory thereof, or the District of Columbia; or

"(E) natural persons who are nationals of the United States have authority to appoint the chief operating officer.".

SEC. 305. POLICY ON COOPERATION WITH ALLIED GOVERNMENTS.

It is the sense of the Congress that the President should consult with the heads of governments of countries allied to the United States regarding the important issues raised by the existence of apartheid in South Africa, particularly the prospect for joint, effective action among the allied countries in the field of economic relations to bring about an end to apartheid.

SEC. 306. STUDY; REPORTS.

(a) STUDY ON STARVATION AND MALNUTRITION IN HOMELANDS.—The Secretary of State shall conduct a study to ascertain the amount of starvation and malnutrition taking place in the "homelands" areas of South Africa.

(b) REPORT ON STUDY.—The Secretary of State shall, not later than 3 months after the date of the enactment of this Act, prepare and transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report setting forth the results of the study conducted under subsection (a).

TITLE IV—GENERAL PROVISIONS

SEC. 401. SOUTH AFRICA DEFINED.

For purposes of this Act, the term "South Africa" includes—

(1) the Republic of South Africa,

(2) any territory under the administration, legal or illegal, of South Africa, and

(3) the "bantustans" or "homelands", to which South African blacks are assigned on the basis of ethnic origin, including the Transkei, Bophuthatswana, Ciskei, and Venda.

SEC. 402. CONSTRUCTION OF ACT.

Nothing in this Act shall be construed as constituting any recognition by the United States of the homelands referred to in section 401(3).

SEC. 403. TERMINATION OF PROVISIONS OF ACT.

(a) DETERMINATION OF ABOLITION OF APARTHEID.—If the President determines that the system of apartheid in South Africa has been abolished, the President may submit that determination, and the basis for the determination, to the Congress.

(b) JOINT RESOLUTION APPROVING DETERMINATION.—Upon the enactment of a joint resolution approving a determination of the President submitted to the Congress under subsection (a), the provisions of this Act, and all regulations, licenses, and orders issued to carry out this Act, shall terminate.

(c) DEFINITION.—For purposes of subsection (a), the "abolition of apartheid" shall include—

(1) the repeal of all laws and regulations that discriminate on the basis of race; and

(2) the establishment of a body of laws that assures the full national participation of all the people of South Africa in the social, political, and economic life in that country.

SEC. 404. COMPLIANCE WITH BUDGET ACT.

Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation acts. Any provision of this Act which authorizes the enactment of new budget authority shall be effective only for fiscal years beginning after September 30, 1985.

Amend the title so as to read: "A Bill to express the opposition of the United States to the apartheid policies of the Government of South Africa and to implement certain measures to encourage South Africa to change such policies.".

By Mr. DELLUMS:

—At the end of title II (RDT&E) add the following new section:

SEC. . STRATEGIC DEFENSE INITIATIVE FUNDING LIMITATIONS.

(a) SDI ACTIVITIES TO BE CONSISTENT WITH 1972 ABM TREATY.—None of the funds appropriated or otherwise made available for research, development, test, and evaluation for fiscal year 1986 shall be available for activities of the Strategic Defense Initiative Organization of the Department of Defense (hereinafter in this section referred to as the "SDIO") for any activity that is not fully consistent with the 1972 Treaty on the Limitation of Anti-Ballistic Missile Systems between the Soviet Union and United States (the "ABM Treaty").

(b) LIMITATION ON DEMONSTRATION PROJECTS.—None of the funds appropriated or otherwise made available for fiscal year 1986 for the SDIO may not be used for—

(1) any technology demonstration project;

(2) any "major experiment"; or

(3) any activity that involves engineering development aimed at the construction of experimental hardware for operational testing.

(c) LIMITATION OF FY 86 FUNDS FOR THE SDIO.—Of the funds appropriated or otherwise made available for the Department of Defense for fiscal year 1986 for research, development, test, and evaluation, not more than $954,900,000 shall be available for the SDIO. Such funds shall be available only as follows:

(1) $348,000,000 for surveillance, acquisition, track, and kill assessment.

(2) $249,000,000 for directed energy weapons.

(3) $149,900,000 for kinetic energy weapons.

(4) $99,000,000 for systems concepts and battle management.

(5) $109,000,000 for survivability, lethality, and key support technology.

(6) $8,000,000 for SDIO management headquarters.

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

AThis Act may be cited as the "Department of Defense Authorization Act, 1986".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to authorize appropriations for the Department of Defense for fiscal year 1986 at levels consistent with a strong national defense and a sound national economy;

(2) to minimize the risk of nuclear confrontation;

(3) to eliminate areas of waste and abuse in the budget of the Department of Defense for fiscal year 1985;

(4) to provide for improved military personnel policies designed to enhance readiness and morale; and

(5) to make other improvements in the management of the Department of Defense.

TITLE I—PROCUREMENT

SEC. 101. AUTHORIZATION OF APPROPRIATIONS, ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1986 for procurement of aircraft, missiles, weapons and tracked combat vehicles, ammunition, and for other procurement for the Army as follows:

For aircraft, $2,516,200,000.

For missiles, $1,141,200,000.

For weapons and tracked combat vehicles, $2,469,700,000.

For ammunition, $2,338,900,000.

For other procurement, $4,743,200,000.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS, NAVY AND MARINE CORPS.

Funds are hereby authorized to be appropriated for fiscal year 1986 for procurement of aircraft, weapons (including missiles and torpedoes), naval vessels, and for other procurement for the Navy and Marine Corps as follows:

For aircraft, $7,889,600,000.

For weapons (including missiles and torpedoes), $3,542,100,000.

For naval vessels, $4,817,300,000.

For other procurement, $5,266,300,000.

For procurement for the Marine Corps (including missiles, tracked combat vehicles, and other weapons), $1,674,700,000.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1986 for procurement of aircraft and missiles and for other procurment for the Air Force as follows:

For aircraft, $13,570,800,000.

For missiles, $5,763,600,000.

For other procurement, $8,165,000,000.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

Funds are hereby authorized to be appropriated for fiscal year 1986 for procurement by defense agencies in the amount of $500,000,000.

SEC. 105. LIMITATION ON ARMY PROCUREMENT.

None of the funds appropriated pursuant to authorizations of appropriations in this title may be obligated or expended for the Pershing II missile program.

SEC. 106. LIMITATIONS ON NAVY PROCUREMENT.

None of the funds appropriated pursuant to authorizations of appropriations in this title may be obligated or expended for the sea-launched cruise missile program.

SEC. 107. LIMITATIONS ON AIR FORCE PROCUREMENT.

None of the funds appropriated pursuant to authorizations of appropriations in this title may be obligated or expended for—

(1) the MX missile program;

(2) the ground-launched cruise missile program;

(3) the B-1B bomber program; or

(4) antisatellite weapons.

SEC. 108. PROHIBITION OF ACQUISITION OF BINARY CHEMICAL WEAPONS.

None of the funds appropriated pursuant to an authorization of appropriations in sec-

tion 101 may be obligated or expended to purchase binary chemical weapons.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) Funds are hereby authorized to be appropriated for fiscal year 1986 for the use of the Armed Forces for research, development, test, and evaluation in amounts as follows:

For the Army, $4,546,700,000.

For the Navy (including the Marine Corps), $7,252,400,000.

For the Air Force, $11,748,200,000.

For the Defense Agencies, $4,135,300,000.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1986 such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a).

SEC. 202. LIMITATION ON FUNDS FOR THE ARMY.

None of the funds appropriated pursuant to an authorization of appropriations in section 201 may be obligated or expended for—

(1) the Pershing II missile program; or

(2) the ballistic missile defense program.

SEC. 203. LIMITATIONS ON FUNDS FOR THE NAVY.

None of the amount appropriated pursuant to the authorization in section 201 for the Navy may be used for—

(1) the Trident II missile program; or

(2) the sea-launched cruise missile program.

SEC. 204. LIMITATIONS ON FUNDS FOR THE AIR FORCE.

None of the amount appropriated pursuant to the authorization in section 201 for the Air Force may be used for—

(1) the MX missile program;

(2) the ground-launched cruise missile program;

(3) the B-1B bomber program; or

(4) antisatellite weapons.

SEC. 205. LIMITATIONS ON FUNDS FOR THE DEFENSE AGENCIES.

None of the amount appropriated pursuant to the authorization in section 201 for the Defense Agencies may be used for antisatellite weapons.

SEC. 206. PROHIBITION OF DEVELOPMENT OF BINARY CHEMICAL WEAPONS.

None of the funds appropriated pursuant to an authorization of appropriations in section 201 may be obligated or expended for research, development, test, or evaluation of binary chemical weapons.

TITLE III—OPERATION AND MAINTENANCE

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) Funds are hereby authorized to be appropriated for fiscal year 1986 for the military functions of the Department of Defense for operation and maintenance in the amount of $78,272,000,000.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1986 such additional sums as may be necessary—

(1) for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in such subsection;

(2) for unbudgeted increases in fuel costs; and

(3) for increases as the result of inflation in the cost of activities authorized by subsection (a).

SEC. 302. ELIMINATION OF NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE.

None of the funds appropriated pursuant to an authorization of appropriations in section 301 may be obligated or expended for the National Board for the Promotion of Rifle Practice.

TITLE IV—WORKING CAPITAL FUNDS

SEC. 401. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1986 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense for providing capital for working capital funds, in the amount of $1,860,000,000.

TITLE V—ACTIVE FORCES

SEC. 501. ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1986, as follows:

(1) The Army, 751,300.

(2) The Navy, 541,050.

(3) The Marine Corps, 192,500.

(4) The Air Force, 565,800.

TITLE VI—RESERVE FORCES

SEC. 601. AUTHORIZATION OF AVERAGE STRENGTHS FOR SELECTED RESERVE.

(a) For fiscal year 1986 the Selected Reserved of the reserve components of the Armed Forces shall be programmed to attain average strengths of not less than the following:

(1) The Army National Guard of the United States, 398,010.

(2) The Army Reserve, 291,900.

(3) The Naval Reserve, 94,000.

(4) The Marine Corps Reserve, 41,900.

(5) The Air National Guard of the United States, 108,700.

(6) The Air Force Reserve, 63,736.

(7) The Coast Guard Reserve, 10,700.

(b) The average strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active day (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

SEC. 602. AUTHORIZATION OF END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

(a) Within the average strengths prescribed in section 601, the reserve components of the Armed Forces are authorized, as of September 30, 1986, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 19,750.

(2) The Army Reserve, 10,700.

(3) The Naval Reserve, 11,680.

(4) The Marine Corps Reserve, 1,475.

(5) The Air National Guard of the United States, 6,815.

(6) The Air Force Reserve, 545.

(b) Upon a determination by the Secretary of Defense that such action is in the national interest, the end strengths prescribed by subsection (a) may be increased by a total of not more than the number equal to 2 percent of the total end strengths prescribed.

SEC. 603. INCREASE IN NUMBER OF CERTAIN PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS.

(a) The table in section 517(b) of title 10, United States Code, is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	517	175	80	9
E-8	2,296	381	358	74".

(b) The table in section 524(a) of such title is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or lieutenant commander	2,476	875	476	100
Lieutenant colonel or commander	1,240	520	318	60
Colonel or Navy captain	360	177	189	25".

(c) The amendments made by subsections (a) and (b) shall take effect on October 1, 1985.

TITLE VII—CIVILIAN PERSONNEL

SEC. 701. AUTHORIZATION OF END STRENGTH.

The provisions of section 138(c)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1986 or with respect to the appropriation of funds for that year.

TITLE VIII—MILITARY TRAINING STUDENT LOADS

SEC. 801. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) For fiscal year 1986, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 57,990.

(2) The Navy, 65,130.

(3) The Marine Corps, 18,300.

(4) The Air Force, 46,300.

(5) The Army National Guard of the United States, 7,500.

(6) The Army Reserve, 8,500.

(7) The Naval Reserve, 1,050.

(8) The Marine Corps Reserve, 2,840.

(9) The Air National Guard of the United States, 2,380.

(10) The Air Force Reserve, 1,405.

(b) The average military student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1986 shall be adjusted consistent with the manpower strengths authorized in titles V and VI of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

SENATE—*Thursday, May 16, 1985*

(Legislative day of Monday, April 15, 1985)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Our prayer this morning will be offered by His Eminence Archbishop Torkom Manoogian, primate, diocese of the Armenian Church of America, New York, NY. His Eminence is being sponsored by Senator CARL LEVIN. We are pleased to have you with us.

PRAYER

His Eminence Archbishop Torkom Manoogian, primate, diocese of the Armenian Church of America, New York, NY, offered the following prayer:

Glory to God our Father in Heaven.

Lord, we are gathered as Your humble stewards, laboring for the good of our Nation and the world.

We are grateful for the privileges of our generation: We live in a country where Your name is worshiped freely and with honor, and where the principles of human freedom and dignity are protected.

Imbue the work of this august body with peace and understanding. Open our hearts to the suffering of others; grant us Your precious spirit so that we might always uplift and exalt Your miraculous creation. You have made us stewards of the Earth; help us be good and tireless stewards.

You who have filled the world with signs of Your almighty power and boundless love, inspire the leaders of our Nation and the representatives of our people to use their talents and potentials wisely and to deliberate all matters with care and compassion. May they be guided continuously by the tenets of truth and justice, so that these virtues may never be undermined; virtues which my Armenian people have suffered to defend throughout their turbulent history.

And especially on this 70th year of remembrance of the genocide of the Armenian people, bless us with a mighty voice to praise You, a sharp eye to discern You, and the ability to direct our energies to the good of all peoples.

Thus Your blessed name, Lord of Creation, shall be praised by all nations, and from generation to generation. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

Mr. DOLE. Mr. President, let me yield first to the distinguished Senator from Michigan, Senator LEVIN.

Mr. LEVIN. I thank my friend.

ARCHBISHOP MANOOGIAN

Mr. LEVIN. Mr. President, I am delighted, as all of us are, to have Archbishop Manoogian with us this morning to deliver the prayer. After listening to his thoughtful and poignant prayer, I know that his message is shared by all of us. I had the pleasure of meeting the archbishop last year in Detroit, where I have visited many friends along the years at St. John's Armenian Apostolic Church. Indeed, Archbishop Manoogian provides spiritual leadership for many of North America's 600,000 American-Armenians who can be proud of their rich culture and proud heritage as reflected in their church—from the time of St. Gregory the Illuminator, who led Armenia to become the first Christian nation of the world in A.D. 301, to the present, where Armenians make important contributions to every aspect of our society.

Archbishop Manoogian was born on February 16, 1919, in the deserts near Baghdad, Iraq, where his parents had fled from the massacres of more than 1.5 million Armenians in Ottoman, Turkey from 1915-23—the first genocide of the 20th century. He was 12 years old when he was sent to attend the Armenian School of the Monastery of St. James in Jerusalem. Upon graduation, he decided to continue his studies there in preparation for the priesthood. After ordination in 1939, he remained for several years at the monastery, serving in various capacities.

Archbishop Manoogian came to the United States in 1946 and was assigned to serve as pastor of the Holy Trinity Armenian Church of Philadelphia. In November 1951 he was named vicar of the diocese and held that post until 1955. Back in Jerusalem, he served from 1957 to 1960 as dean of the theological school, as a member of the Holy Synod and chairman of the general assembly of the St. James Brotherhood, and chancellor of the patriarchate.

Archbishop Manoogian worked on the publication of the sacred music of the Armenian Church together with Wardan Sarxian, one of the pupils of the musician-priest Gomidas Vartabed. These arrangements were subsequently published in the United States in two volumes. Archbishop Manoogian also published the "Sunrise Service of the Armenian Church" and prepared for the first time ever the complete music of the deacon's part on the Divine Liturgy.

In 1960 he returned to the United States and enrolled at the Episcopal Theological School in Cambridge, MA, as a postgraduate student where he remained for the next 2 years. In 1962 he was elected primate of the western diocese of the Armenian Church of America and in the same year he visited Etchmiadzin, where he was ordained bishop. In 1966 he was elected primate of the eastern diocese of the Armenian Church of America and in 1968 was elevated to the rank of archbishop.

Archbishop Manoogian has published many articles in periodicals as well as a number of pamphlets and books. He serves on the governing board and the executive committee of the National Council of Churches in Christ. This year he was elected chairman of the board of Religion in American Life and is also a member of the Appeal of Conscience Foundation.

In May 1982 Archbishop Manoogian was elected to an unprecedented fifth 4-year term as primate of the diocese of the Armenian Church by an overwhelming majority of the delegates representing the 50 parishes in the United States and Canada of the diocese.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders each have 10 minutes, followed by special orders for Senators PROXMIRE, DIXON, BUMPERS, and PRYOR. They will be in routine morning business not to extend beyond the hour of 11:30 a.m., with statements therein limited to 5 minutes each.

Following morning business, the Senate will resume consideration of the conference report to accompany H.R. 1869, repeal of auto recordkeeping. That will be under a 40-minute time agreement—10 minutes under the control of Senator PACKWOOD, or his designee, and 30 minutes to the distinguished Senator from Ohio, Senator METZENBAUM. I am advised there will

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

not be a rollcall, but it is never a certainty.

Following the disposition of the conference report, there are a number of calendar items: The small business authorization (S. 408), the coin bill (H.R. 47), and safe drinking water (S. 124). We also have an Executive Calendar nomination of Vernon Walters, and an Executive Calendar nomination of Richard Hughes, and any other Legislative or Executive Calendar items cleared for action.

I assume there will be rollcall votes today. There will be a session on Friday. We hope to be on the defense authorization bill. It would be my hope that we could reach some agreement during the day to complete action on that bill by no later than 6 p.m. Thursday next so that we might complete action on this very important matter.

Mr. President, I reserve the balance of my time. I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

RECOGNITION OF SENATOR PROXMIRE

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

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may reserve the time of the minority leader, Senator BYRD, for his use later in the day.

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

GIVE STAR WARS A CHANCE BUT CUT FUNDING INCREASE

Mr. PROXMIRE. Mr. President, as we know, the President has proposed a massive increase in funding for the star wars program. The President would push the present $1.4 billion appropriated for 1985 to a colossal $3.7 billion in 1986. The Armed Services Committee has reduced that to some extent, but it is still a huge increase of more than 100 percent. The Armed Services Committee has recommended a $3 billion increase.

That would still hand star wars a colossal 114-percent increase in funding in 1 year. Dr. Richard Garwin, a brilliantly qualified expert, has recommended that the level of research be kept at $1.4 billion for 1986 for star wars. In this year of austerity, faced with the necessity for holding down all Federal spending and with military spending under special pressure, how generously should the Congress fund the star wars program?

Mr. President, Senators CHAFEE, BUMPERS, MATHIAS, and I have prepared an amendment that would permit a major increase in star wars research. It would increase star wars research funding for 1986 to $1.86 billion. That would mean an increase of more than 30 percent in funding for this highly controversial program in a stringent austerity year.

What would my amendment permit star wars research to do? It would permit high quality antiballistic missile defense. It would provide for a hedge against the Soviet ABM effort. And it would provide the basis for greater congressional oversight by developing the information necessary for the Congress to make a decision on the basis of the fullest possible information whether to go ahead to produce and deploy the immensely expensive hardware necessary to make star wars effective.

What would the Proxmire amendment eliminate in reducing the President's proposal to $1.86 billion? Mr. President, all of us agree with the President's observation that this program is not based on any single or preconceived notion of what an effective defense system would look like. Obviously, this is a long-term research project in its very early stages. Last month, a workshop at Stanford University issued a report on the Strategic Defense Initiative by an expert group that included both supporters and critics of the program. They agreed that it is now far too early for any program in strategic defense to consider technology demonstrations of types that could raise serious issues of compliance with the ABM treaty.

And they added this observation:

> In addition to the political costs of such early demonstrations (whether or not they violate the ABM treaty), premature promotion to the demonstration-and-test phase can be very harmful to attainment of any particular goal in strategic defense. A considerable body of evidence has shown that early demonstrations of new technologies have two deleterious effects. First, they tend to freeze the technology being demonstrated before it is fully mature, thus guaranteeing less than full capability. Second, they tend to absorb money from associated R&D programs, thus eliminating the possibility of better solutions . . . Therefore, at this time, sensible R&D should proceed; but demonstrations of types that could justify charges of ABM treaty violation should not even be considered before the new technologies reach sufficiently advanced performance goals to merit tests of their ability to meet systems criteria.

So our amendment permits funding increases for demonstration projects to increase only 4 percent. On the other hand, funding for the system survivability, lethality, and hardening projects would be allowed to increase at the rate the administration requested. And, as I have stated previously in speeches on the floor, a new program, threat analysis—that is a project designed to research Soviet countermeasures—would be created to assure the Congress that it would have the information available to meet the standard proposed by Paul Nitze. Nitze proposed that the star wars defense should only proceed if it meets a cost-effectiveness test. Nitze defined cost-effectiveness for star wars as a determination that the ABM defense costs less than the Soviets could spend to overcome it.

My amendment would also meet the President's stated objective that the star wars research be able to respond to the ongoing Soviet ABM effort. Any SDI research program funded by Congress should enable the United States to meet a Soviet breakout from the ABM treaty. Does the President's $3.7 billion request do this? The answer is a clear and emphatic "No." Does our proposed amendment meet the test? Yes. It would provide for research into conventional ABM systems. These systems provide the most practical and immediate hedge against a Soviet breakout of the ABM treaty. The amendment would also establish a new Hard Point Defense Technology Program.

What would be the purpose of a Soviet breakout from the ABM treaty? Obviously, it would be to reduce the effectiveness of the U.S. deterrent. How can we overcome such a Soviet move? Answer: Increase the ability of our offensive nuclear forces to penetrate Soviet defenses. What does our proposed amendment do about this? It doubles the Air Force penaids program in fiscal year 1986.

Mr. President, if the Congress proceeds with the SDI program, it will absorb a massive proportion of this country's military research dollars and an increasing proportion of the scientists and engineers engaged in developing weapons to provide our national security. For that reason, our amendment establishes a Strategic Defense Evaluation panel to monitor this technology and its implications for arms control, for our overall national security, and to report to the Congress.

Mr. President, I ask unanimous consent that a table comparing the star wars research funding for fiscal year 1984, fiscal year 1985, the President's proposed changes for 1986, and the alternative budget that we are proposing for 1986, be included in the RECORD. This table shows the increase in the research budget for star wars broken down in detail. It also shows the percentage increase over this year's funding in the amendment we propose—the "alternative budget."

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

SDI ALTERNATE BUDGET

[Dollar amounts in millions]

	Fiscal year—				
	1984 appropriation	1985 appropriation	1986 request	1986 alternate budget	Percent over 1985
Current year	991.8	1,397.2	3,722.3	1,860.2	33
63220C Surveillance	366.5	546.0	1,386.3	683.5	25
0001 Radar Discrimination Tech	24.1	29.9	74.1	38.9	30
0002 Optical Discrimination Tech	50.5	133.7	198.7	173.8	30
0003 Imaging Radar Tech SRB	6.3	15.3	45.8	19.9	30
0004 Imaging Laser Tech LIDAR	5.6	28.3	127.0	36.8	30
0005 IR Sensors and Data Tech	86.8	57.8	151.4	75.1	30
0006 Booster Surv and Track BSTS	28.3	38.0	131.1	49.4	30
0007 Space Surveil and Track SSTS	35.6	37.0	136.0	48.1	30
0008 Airborne Optical Sys AOS	28.8	117.0	191.6	121.7	4
0009 Terminal Imaging Radar TIR	100.5	6.0	74.6	6.2	4
0010 Space-Based Imaging Demo	0	0	5.8	5.8	
0011 Common Tech and Architecture	0	83.0	250.2	107.8	30
63221C Directed Energy Weapons	322.5	376.3	965.4	446.8	19
0001 Space-Based Laser System	167.0	162.7	371.9	169.2	4
0002 Ground-Based Laser Systems	133.1	178.1	431.5	231.5	30
0003 Space-Based Particle Beam	13.9	32.1	133.4	41.7	30
0004 Nuclear Directed Energy	8.5	3.4	28.6	4.4	30
63222C Kinetic Energy Weapons	195.8	256.0	860.0	305.0	19
0001 Endo Non-Nuclear Kill Tech	111.1	68.7	100.6	89.3	30
0002 Exo NNK Technology	.1	49.1	109.7	63.8	30
0003 System Eng and Analysis	2.4	4.0	11.8	5.2	30
0004 Hyper-Velocity Launcher	6.6	19.1	68.7	24.7	30
0005 Novel Concepts	2.3	9.0	29.5	11.7	30
0006 High-Endo Defense Sys HEDS	36.8	27.6	101.9	28.7	4
0007 Exo RV Intercept Sys ERIS	24.2	12.7	120.7	13.2	4
0008 SLBM Boostphase Engagement	.1	0	0	0	
0009 Space-Based Hyper-V Launch	6.6	3.5	39.3	3.6	4
0010 Space-Based NNK Rocket	5.5	30.0	147.4	31.2	4
0011 Terminal System Demo	.1	32.3	130.1	33.6	4
63225C Hard Point Defense Tech Dev				75.0	
63223C Systems Concepts and BMC3	83.0	99.0	243.3	127.8	30
3001 Battle Management and C3	50.0	46.0	145.0	58.9	30
3002 SDI Systems Architecture	33.0	53.0	98.2	68.9	30
63226C Threat Analysis				20.0	
63224C Support Projects	24	112.0	258.1	192.9	72
0010 System Survivability	9	36.2	72.1	72.1	99
0011 Lethality and Hardening	11.3	63.3	103.5	103.5	63
0012 Space Power and Conversion	2.0	11.0	63.8	14.3	30
0013 Space Logistics	1.0	1.5	18.7	3.0	100
65898C SDIO Management HQ	.5	8.0	9.2	9.2	15

SDI ALTERNATE BUDGET—Continued

[Dollar amounts in millions]

	Fiscal year—				
	1984 appropriation	1985 appropriation	1986 request	1986 alternate budget	Percent over 1985
63311F Advanced Stat Miss Syst		98.0	173.9	196.0	100

UNITED STATES NEEDS TO BE "RIGHT AND STRONG"

Mr. PROXMIRE. Mr. President, on Wednesday, May 8, Israel bestowed posthumous citizenship on the 6 million Jews who died in the Holocaust. In addition, Israel granted honorary citizenship to gentiles who risked their own safety to hide Jews from the Nazis. Prime Minister Shimon Peres declared to those who had gathered to celebrate:

> Today we have our own land, our own sovereignty, our own freedom. We shall never repeat the crime of being right and weak. We want to be right and strong.

Ghetto fighters and partisans of all nations, gathered in Israel for an international symposium on resistance to the Third Reich, cheered Peres' words.

Mr. Peres' statement is especially meaningful to Americans concerned with international human rights. How can or great Nation allow itself to be "right and weak"? The failure to ratify the Genocide Convention Treaty is indeed a crime; it is a crime of omission which negates our claims of moral righteousness. As I have said before, "We cannot do moral battle against genocide with one hand tied behind our back." In order to be both "right and strong" we must utilize every diplomatic tool at our disposal.

What better time to act then this years, on the 40th anniversary of the liberation of Europe from Nazi terror? Just as Reagan remembered the suffering at Bergen-Belsen, so the United States must keep its promise to the victims of death camps to never again allow organized murder. One important way to show our commitment to this promise is to add America's name to the 96 nations that have already signed the treaty our Nation helped draft.

The treaty is far more than a statement owed to past generations. It is a promise to future generations of Jews, Cambodians, Armenians, and Miskito Indians of Nicaragua that the United States of America will do everything in its power to prevent and punish the heinous crime of genocide.

Let us not miss the critical moment of remembrance and seize the opportunity to be strong as well as right, by ratifying the Genocide Convention Treaty.

S. 1148—ELECTRONIC BANKING COMPETITIVE EQUALITY ACT OF 1985

Mr. PROXMIRE. Mr. President, today I am introducing the Electronic Banking Competitive Equality Act. The purpose of the act is to clarify the scope of the McFadden Act vis-a-vis developments in the field of electronic funds transfer so as to facilitate the convenient utilization of ATM's and similar devices by bank customers, while preserving competitive equality between State and national banks and respecting the dual banking system.

The case of IBANYS versus Marine Midland has demonstrated the need for such clarification. At the district court level, a functional test of branching was applied to determine whether an ATM not owned or rented by a national bank was a branch of that bank. The court determined that an ATM performing any of the functions enumerated in the McFadden Act—receipt of deposits, payment of checks, or lending of money—was a branch under Federal law. As a result, the ruling implied that a national bank would be able to utilize ATM's and similar devices to a lesser extent than State banks, in a State which had restrictive branching laws but which exempted ATM's from its branch definition; and that a national bank could not participate in any shared interstate EFT system, since McFadden constitutes an absolute prohibition to interstate branching.

The appeals court reversed, focusing on whether the ATM had been established by the national bank, rather than on the functions performed through the machine. The court held that an ATM or similar device not owned or rented by a national bank was not its branch; and, further, that transaction fees levied for the use of such devices would not be considered rent. As a result of this ruling, State banks could be placed in a position of competitive inequality vis-a-vis national banks as to the intrastate utilization of ATM's owned by third parties. Further, the States would be left powerless to regulate or control interstate deposit taking by national banks through such third-party machines.

Plaintiffs have now sought certiorari from the Supreme Court. Regardless of whether that request is granted, it is clear that congressional intervention is required because, when the McFadden Act is applied to electronic banking equipment, an emphasis on a functional test appears to place national banks at a competitive disadvantage; while an emphasis on proprietary control places State banks at a disadvantage, and undermines the ability of the States to exercise the control over interstate deposit taking which both McFadden and the Douglas amendment seek to delegate.

In the absence of Federal legislation, it would be entirely possible for a group of national banks to establish a shared network of automated teller machines on a nationwide basis totally outside the framework of State law. Thus even though a State may restrict or limit deposit taking by out-of-State institutions, a group of large national banks headquartered in New York or other financial centers could claim immunity on the grounds that national banks are not subject to State ATM laws. According to a recent survey by the Conference of State Bank Supervisors, 23 States have explicit restrictions in their ATM laws on deposit taking by out-of-State banks. Many of the other States rely on other provisions of State law or the McFadden Act to restrict deposit taking by out-of-State banks.

It is true that up to now, national banks have more or less decided to voluntarily comply with State ATM laws, perhaps with the idea of not rocking the boat while these ATM networks are being established and the law was somewhat unclear. However, if the second circuit decision stands on the Midland case, national banks will be in a strong legal position to begin challenging the right of the States to regulate ATM terminals, at least as they apply to national banks. Thus the fundamental principles of the dual banking system are in jeopardy unless Congress updates the McFadden Act in the light of today's financial technology.

My bill seeks to redress the situation in the following manner:

A national bank is permitted to utilize third-party electronic equipment to the same extent as is permitted to State banks in the State in which the equipment is located. Put simply, if a State bank can connect to a particular ATM or similar device, a national bank can too.

This automatic parity between national and State banks does not, however, apply to the deposit-taking function. For that function alone, a national bank may connect to a shared ATM located outside the State in which it is situated only if the law of that State specifically authorizes interstate deposit taking through electronic means.

Transaction fees are exempted from being considered as rent provided that they are levied against all banks utilizing the electronic equipment pursuant to a uniform fee schedule. Also, constructive ownership may not be found provided that the national bank and its parent, and subsidiaries and affiliates thereof, do not control either the equipment, or the shared electronic system connecting banks to the equipment, so as to gain a competitive advantage over other banks. These requirements will assure that shared systems operate in a nondiscriminatory manner, without favoring a particular bank; and that a de facto proprietary EFT/ATM system is not established by a national bank through the legal subterfuge.

Finally, the bill defines shared electronic banking equipment to encompass ATM's, CBCT's, cash dispensers, POS terminals, and any similar devices which facilitate customer access to bank products and services, are accessible by the general public, and which can be utilized by any bank on a nondiscriminatory basis.

This bill is a fair and balanced approach which enhances the establishment and utilization of electronic devices by bank customers by lifting a legal cloud; but which also preserves the values of competitive equality, a dual banking system, and State control over interstate deposit taking, which are all fundamental foundations of our banking statutes.

Mr. President, I ask unanimous consent that a copy of a survey of ATM placement and restrictions on deposit taking conducted by the Conference of State Bank Supervisors be placed in the RECORD, as well as the full text of my bill, following my remarks.

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

SURVEY BY CONFERENCE OF STATE BANK SUPERVISORS

Placement of Automatic Teller Machines (ATMs) by Out-of-State Institutions and ATM Law Restrictions on Acceptance of Deposits in ATMs for Accounts of Out-of State Institutions:

By a March 1985 review of state statutes and by telephone survey of State banking department personnel, 41 responses to the below questions were received:

A. Does state ATM law permit direct placement of ATMs by out-of-state entities?

B. Does the state ATM law limit or restrict deposit-taking by out-of-state institutions?

The results in summary form are as follows:

A. Permit placement of ATMs: Yes, 7;[1] No, 34.

B. Limit or restrict out-of-state deposit-taking: Yes, 23; No, 18.[1]

[1] Includes 5 states that require reciprocity or other specific restrictions on functions.

[2] A "No" response includes states relying on other provision of state law or the McFadden Act, rather than inclusion of such a prohibition in state ATM statute.

	A. Permit placement of ATMs	B. Limit or restrict out-of-State deposit-taking by ATM statute [1]
State:		
Alabama	Yes [2]	No.
Arkansas	No	Yes.
California	No	Yes.
Colorado	No	Yes.
Connecticut	No	Yes.
Delaware	No	No.
Florida	No	Yes.
Georgia	No	Yes.
Hawaii	No	No.
Idaho	No	Yes.
Illinois	No	Yes.
Indiana	No	Yes.
Iowa	No	Yes.
Kansas	No	No.
Kentucky	No	Yes.
Maine	No	Yes.
Maryland	Yes [2]	No.
Massachusetts	Yes [2]	Yes.
Michigan	No	Yes.
Minnesota	No	Yes.
Mississippi	No	No.
Montana	No	Yes.
Nebraska	No	No.
New Hampshire	No	Yes.
New Jersey	No	No.
New York	No	Yes.
North Carolina	No	No.
North Dakota	No	Yes.
Ohio	No	Yes.
Oklahoma	Yes	No.
Oregon	Yes [2]	No.
Rhode Island	No	No.
South Carolina	No	No.
South Dakota	No	No.
Tennessee	No	No.
Texas	No	Yes.
Utah	No	No.
Virginia	No	Yes.
Washington	Yes [2]	Yes.
West Virginia	Yes	No.
Wisconsin	No	No.

[1] A "No" response may merely indicate reliance on other provision of state law or the McFadden Act, rather than inclusion of such a prohibition in state ATM statute.

[2] Require reciprocity or contain other specific restrictions on functions.

Note.—A permit placement of ATMs: yes, 7; no, 34. B. Limit or restrict out-of-State deposit-taking by ATM statute: yes, 23; no, 18.

S. 1148

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 "Electronic Banking Competitive Equality Act of 1985".

SEC. 2. Section 5155 of the Revised Statutes (12 U.S.C. 36) is amended by adding at the end thereof the following:

"(l)(1) Except as provided in paragraph (2), a national bank may connect to, and permit its customers to use, shared electronic banking equipment which such bank does not own or rent to the same extent as, and subject to the same restrictions, conditions, regulations, rulings, and interpretations, as are imposed upon foreign or domestic State banks by the law of the State in which such electronic banking equipment is located, as enforced by such State's banking regulatory authority.

"(2) A national bank may not receive, accept, or otherwise credit the account of its customers for, any deposit made at or through the medium of shared electronic banking equipment located in a State other than the State in which such bank is situated, unless the statute law of the State in which such equipment is located authorizes such interstate transmission of deposits via shared electronic banking equipment by language specifically and affirmatively to this effect and not merely by implication or recognition.

"(3) For the purposes of this subsection, the term—

"(A) 'own' includes the exercise of constructive control over shared electronic banking equipment, or the transmission network connecting such equipment to banks, by a national bank, its parent holding company, and subsidiaries and affiliates thereof, where such control results in a competitive advantage over other banks;

"(B) 'rent' does not include transactional fees or similar charges assessed for the use of electronic banking equipment, provided that such fees are assessed in accordance with a uniform fee schedule upon all banks which share, or permit their customers to use, such equipment and

"(C) 'shared electronic banking equipment' shall include automated teller ma-

chines, customer bank communication terminals, point-of-sale terminals, cash dispensing equipment, and similar publicly accessible transmission devices facilitating the utilization of bank products and services by customers, provided that such equipment, and the transmission network or networks connecting such equipment to banks, may be utilized by any bank wishing to do so on a nondiscriminatory basis.

"(4) The connection of a national bank to any publicly accessible electronic banking equipment other than shared electronic banking equipment shall constitute the establishment and operation of a branch.".

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

RECOGNITION OF SENATOR BUMPERS

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is recognized for not to exceed 15 minutes.

S. 1149—RATEPAYER PROTECTION ACT OF 1985

Mr. BUMPERS. Mr. President, I am today introducing, along with Senator PRYOR, the "Ratepayer Protection Act of 1985," legislation that has one simple premise: Consumers of electricity should not be forced by the Federal bureaucracy, over the objection of a State public service commission, to suffer a 50-percent rate increase in order to pay for electricity they don't want, don't need and can't use.

Yet, Mr. President, that is what is about to happen as a result of two cases currently before the Federal Energy Regulatory Commission [FERC] involving the construction of the $3.5 billion Grand Gulf Nuclear Powerplant in Mississippi. Although the decision to build the plant was never subject to approval by the Arkansas Public Service Commission, the Louisiana Public Service Commission or New Orleans Public Service Commission, and although none of them want or need the power that will be generated, they may be forced by FERC to pay for up to 75 percent of the power from Grand Gulf.

Mr. President, if this strikes you as tremendously unfair and completely unjust to Arkansas ratepayers, that is because it is. I cannot overemphasize the depth of the feeling of opposition to this in Arkansas. All across the State, thousands of farmers, small businesses, and working men and women struggling just to get by, have been appalled and grossly offended by the news that their rates may go up by as much as 50 percent to pay for electricity they don't need and never agreed to purchase.

Our bill would amend the Federal Power Act to give State regulatory bodies more authority in this and similar situations; and since the Grand Gulf cases could very well become precedent for similar cases in many other States, other Senators will be interested in this legislation. Of course, I still have hope that the full Federal Energy Regulatory Commission will reverse the decisions of the two administrative law judges that have ruled adversely to Arkansas, but if they do not, the consequences will be so harmful to Arkansas that I have no choice but to attempt to reverse FERC legislatively.

The Ratepayer Protection Act of 1985 would restore to the State regulatory commissions the authority to determine whether a State-regulated utility may flow through to its retail customers the rates approved by FERC. Under our bill, the State commission would be granted this authority in cases involving rates arising from electricity purchases between utility companies within a public utility holding company system and only where the State commission had not approved the construction upon which those rates are based.

Arkansas Power and Light Co. [AP&L] is a subsidiary of the Middle South Utilities, Inc., a public utility holding company with three other utility operating companies, Mississippi Power and Light Co. [MP&L], Louisiana Power and Light Co. [LP&L], and New Orleans Public Service, Inc. [NOPSI].

Since the early 1950's, each of these four companies has operated and planned its plant construction in coordination with the others, so that each would enjoy the economic benefits of a larger overall grid. A company with temporary excess capacity sold it at market rates to a fellow subsidiary which temporarily needed power. Each utility built new capacity when its load projections dictated the need. These projections naturally took into consideration the availability of whatever temporary capacity would be available from the other utilities in the system. This situation was dictated only by economics, not by the parent holding company. Each company retained its independence.

In the 1970's, AP&L undertook an ambitious construction program, building two nuclear powerplants and a large coal-burning plant. It has recently completed a second coal-burning plant. These plants produce electricity at rates that are now regarded as low, but which were very expensive at the time. In fact, AP&L's rates rose 200 percent in 10 years. AP&L's customers assumed that heavy burden, conserving wherever they could.

Although AP&L rates are still high by historic standards, they now compare favorably with others throughout the Nation, because the increased rates have already amortized a substantial portion of the recent construction. According to the staff of the Arkansas Public Service Commission, AP&L has capacity sufficient to meet demand for the next decade and a half. Arkansans have paid the price, and they should be facing a bright future.

Instead, the Grand Gulf proceeding threatens to rob Arkansans of this bright energy future and impose instead an era of unacceptably high energy costs.

These cases are the outgrowth of two other, less successful construction programs. The first is Mississippi Power & Light's disastrous attempt to build a 1,250 nuclear powerplant, the largest in the country, at Grand Gulf, MS. This plant was begun in the early 1970's and was initially projected to cost $600 to $700 million. It has only recently received its full power operating license, and the final cost is a staggering $3.5 billion. This would have easily bankrupted MP&L, so its fellow operating subsidiaries rescued it by agreeing to help finance its cost overruns.

AP&L originally agreed to guarantee 17.1 percent of the indebtedness in exchange for receiving power from the plant. However, when AP&L began planning its second coal plant, it was obvious AP&L would not need power from Grand Gulf, so in 1981 it was released from that agreement voluntarily by the other Middle South utility subsidiaries.

The circumstances surrounding this release demonstrate why our legislation is necessary. The release was signed when AP&L was seeking permission from the Arkansas Public Service Commission to build its second large coal-burning plant. The precise connection is subject to dispute, but it is clear that the Arkansas commission began to question the need for the coal plant if AP&L also intended to purchase electricity from the Grand Gulf plant.

AP&L responded that its agreements with its fellow subsidiaries would not require it to take Grand Gulf power if it had sufficient power on its own system. Because the coal plant would assure AP&L of sufficient capacity, it would not be using Grand Gulf power. As further emphasis, the other Middle South subsidiaries released AP&L from its financial obligations for Grand Gulf. The agreement was clear—AP&L would take no power from Grand Gulf and would pay for none. With this very important assurance, the Arkansas Public Service

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Commission approved the second large coal plant.

This careful planning is now threatened, because an administrative law judge of the Federal Energy Regulatory Commission has now decided that AP&L should be required to pay for 36 percent of the Grand Gulf plant, and share the benefit of AP&L's own construction program with the other subsidiaries. It is as if the ant were forced not only to share the benefits of his labor with the grasshopper, but also to pay the grasshopper's debts. This travesty would increase AP&L's rates by 25 percent, and, under current law, the Arkansas PSC would be forced to flow-through this increase to thousands of individuals, many very poor, and thousands more small businesses and farmers who are already struggling just to avoid bankruptcy.

In the second FERC case, intervenors are seeking to apply the same principle to the entire Middle South system. It principally involves reallocation of the costs of AP&L's Waterford Nuclear Powerplant which is the second of the two construction programs that I mentioned. This case would increase AP&L's rates by 50 percent.

Obviously, such increases would be devastating to Arkansas, but the real impact can only be seen by examining its effect upon individuals. I held an invaluable hearing in Little Rock on this subject and the testimony was astonishing. Every sector of the State would be prostrated by a 50-percent rate increase rippling through the economy.

For example, John Amos, the general manager for energy resources of Reynolds Metals, emphasized how essential electricity is in producing aluminum at its Arkansas plants, representing 30 percent of the production cost. A 50-percent rate increase would thus increase total production costs for Reynolds in Arkansas by 15-percent. Few manufacturers are flexible enough to absorb a 15-percent increase, and Reynolds certainly cannot. A 50-percent rate increase would force Reynolds to take its jobs, payroll and tax base elsewhere.

Equally important, Reynolds is AP&L's largest customer, purchasing over $100 million of power annually, which is 25 percent of AP&L's total sales. If Reynolds left, the fixed costs now supported by its purchases would be imposed on existing customers, raising their rates even more. This threat to Reynolds is enormous, but it is small when compared to other Arkansas businesses, large and small, because at least Reynolds has the option of leaving the State. Other Arkansas businesses cannot. They would have to stay and try to absorb these increases. Most of them are not in a position to do that, nor can they increase their prices to pass the cost to their customers.

Certainly, electric-intensive businesses cannot do so. Consider rice producers. Depending on the depth of their irrigation wells, rice farmers allocate 10 to 20 percent of their production costs to irrigation alone. That proportion is far above the 7-percent benchmark that the FERC uses to define an electricity-intensive energy user. A deep well already costs $80 per acre to operate each year, so a 50-percent increase would raise that to $120. Because 400 acres is considered a sound economic unit, that would mean a $16,000 annual increase in operating costs.

There is no way to pass these costs to consumers. Rice farmers operate in a world market. The strong dollar has already eroded the Arkansas farmers' competitive position there. They cannot take another blow like this one.

Moreover, they cannot reduce their purchases of electricity. They must pump water, and the cost of converting to diesel pumps is prohibitive, not to mention the fact that all competing fuels would probably rise in price to match electric rate increases.

In addition, these figures do not consider the secondary costs of processing. Both Riceland Foods, the State's largest cooperative, and Producers' Rice Mill, another large rice mill, testified that 5 to 7 percent of their costs are attributable to electricity. Both of them are already trying to reduce that amount through conservation. For example, Riceland is pioneering a machine to burn its rice hulls to produce power. Both have already shifted their electricity use as much as possible to take advantage of lower, off-peak rates. They continue to look for other methods of conservation, but it is still obvious that they would be devastated by a 50-percent rate increase. The same is true of the smaller rice mills.

Arkansas produces more rice than any other State. If rice farmers and millers are badly damaged, then the State is badly damaged.

The hearing showed that all farmers, large and small, would be badly damaged by a large rate increase. Hays Sullivan, a wise and careful farmer and seed processor, pointed out that, in addition to rice growers, growers of soybeans, wheat and milo would be hurt. Handling costs for these commodities now include 1.27 cents per bushel, so a 50-percent increase would add more than one-half cent per bushel at minimum, and a wet year would require more drying, increasing those costs by 4 to 5 cents per bushel and making them virtually unmarketable on the world market.

Mr. Sullivan went on to discuss the impact upon cotton growers. The cost of electricity for ginning a bale of cotton has increased over 300 percent since 1974, from $2.56 per bale to $10.13 per bale. A 50-percent increase, $5.06 per bale, would alone be 100 percent more than the total ginning cost in 1973, while the price of cotton is virtually the same as it was then.

Nicky Hargrove, the president of the Arkansas Farm Bureau, pointed out how the poultry growers would be hurt. Any operation with 50,000 laying hens would pay nearly $8,000 per year more. These businessmen are in a very competitive market, which permits very narrow margins. A dozen eggs, for example, brings one-half cent in profit. A 50-percent increase in electric rates would virtually eliminate that narrow margin.

Arkansas is by far the biggest broiler producing State in the Nation, and a normal unit is 30,000 chicks.

A broiler grower with 30,000 birds would face a $1,300 per year increase in electricity. It was clear from the hearing testimony that the growers would have to absorb that increase because wholesale purchasers would not. In fact, Gene Newmen, appearing for a large broiler processor, testified that it would have to consider leaving the State, because, of the six electric companies serving his company, AP&L already has the highest rates.

Arkansas produces more broilers than any other State. It is fourth in the production of turkeys and fifth in the production of eggs. Poultry growing and processing provide 65,000 jobs, making that the second largest source of employment in the State.

Arkansas clearly cannot afford to lose that industry, but that is what could happen. Just as with rice growers, poultry growers compete in a world market, sometimes against subsidized competition. With margins of less than 1 cent per pound for each chicken or turkey, they cannot absorb a 50-percent rate increase. Yet, they cannot reduce their use of electricity. They have already insulated their buildings, and they are undertaking whatever other conservation measures that they can. In fact, a new conservation service industry has developed to serve those demands, but it is a case of running as hard as you can just to keep up.

The same is true of the remainder of the agricultural sector, as testimony from cattlemen and milk producers showed at the hearing.

The nonagricultural sectors of Arkansas are already being squeezed. Small manufacturers would be badly hurt, and some would divert work from the State. For example, Orbit Valve, which makes valves for oil equipment, has operations in both Arkansas and England. Since 1980, its cost of electricity has risen from 3.9 percent of total costs to 7 percent. Given the strength of the dollar, the weakness of the pound sterling, and

ever-present Japanese competition, a 50-percent rate increase would certainly compel the company to rely more on its foreign facilities, thus reducing jobs in Little Rock.

The Monark Boat Co. competes for Government contracts—and does so very well—but it would be severely, if not fatally, harmed by a 50-percent rate increase. Last year it faced tough competition, for example losing one sizable contract by 0.4 percent and winning another by 3.9 percent. Since 1980, its electric rates have risen 50 percent. It is electric-intensive, with 7 percent of its costs devoted to electricity, and if there had been a 50-percent increase in rates last year, it would have lost $10 million in sales, half of its annual sales. Also, such an increase would make unprofitable many of its existing, multiyear contracts.

Both Monark and Orbit have invested in labor-saving equipment to boost their productivity, just as Congress intended when it passed the Economic Recovery Tax Act of 1981. A rate increase would completely upset the economies of those careful investments, robbing the companies of the intended benefits.

Another small Arkansas manufacturer, the American Transportation Co., makes buses. It already pays power bills equivalent to its competitors. An increase as low as 17 percent would force it to direct its future growth outside Arkansas.

The list goes on. Consider the Koehler Bakery Co., a family owned business begun in 1919. It has done everything it can do to conserve energy, even planting large flotinas to shade its freezers, but Federal regulations limit its ability to conserve more, because they require certain minimum temperatures. Therefore, it is not likely to reduce its energy costs much below the current high level of 30 to 35 percent of all costs.

The timber industry would be similarly squeezed. In 1982, lumber mills received $198 per thousand board-feet of lumber, but in 1984 they faced more competition from Canada and a recession, so they received only $184. Yet, from 1978 to 1984, electric rates rose 163 percent. A 50-percent rate increase would add another $4 per board-foot to the cost of producing lumber. A moderate size operation, such as Deltic Farms, would have to absorb an annual increase of nearly $500,000. A small operation, such as Charles Shields' one-man proprietorship, might not be able to absorb it at all. With daily sales averaging $4,200, he has an average daily margin of $228. A 50 percent rate increase would reduce that by $40. He is typical of many small mill owners who have already reduced electric costs to the bone, for example, by operating from 2 a.m. until 11 a.m. to take advantage of off-peak rates. They would soon begin to question whether their effort and investment were worth the reduced return.

Other small businesses would face the same question. Stant, Inc., of Pine Bluff, started 4 years ago to make gasoline, radiator, and oil caps. It then had 17 employees and it has grown to 250, but electricity now accounts for 7.1 percent of its overhead. A further rate increase of 50 percent would certainly reduce its operations and its work force.

Consider Donald Munro's Shoe Co. which spent $350,000 in energy-saving equipment between 1980 and 1984, only to see his electric bill go from $432,000 per year to $570,000 per year. He cannot continue to receive such increases and still battle fierce competition. And I don't need to remind Members of this body about the plight of our domestic shoe industry, which has already lost 73 percent of the U.S. market to imports.

Finally, consider Jane Adcox, who started the American Restaurant in Batesville in 1979. She immediately saw the necessity to conserve, so she installed insulation and purchased new, energy-efficient equipment. Yet in 1979 her utility bills were 3.1 percent of her gross, but they are now 6.1 percent, and her volume has not changed that much. If there is a 50-percent rate increase, there will be no room for more Jane Adcoxes in this world of fast-food franchises. In Jane's words, "We'd just have to close."

Mr. President, no one can doubt the magnitude of these electricity rate increases and their immediate effect, but it is even more important to assess the indirect effect as these increases ripple through Arkansas' economy and become magnified. The direct purchasers of the electricity will either pass the new costs on to their customers, absorb them, or cease operating, but none of the alternatives is desirable, as the testimony showed.

For example, Bill Scrimshire is the able mayor of Malvern, a city near a Reynolds' plant. As the owner of a restaurant he knows how dependent Malvern is on Reynolds' success. If Reynolds lays off people, he lays off people. If Reynolds closes, he closes. As a home owner, he knows how expensive a 50-percent rate increase would be to him and to other citizens. As mayor, he is aware of the increased demands made upon the city's budget by Federal water quality standards, and he must recognize the impossibility of meeting them if a 50-percent rate increase hits Reynolds and ripples through the city's economy.

It is clear by this example alone that Arkansas' quality of life would be dramatically harmed.

If AP&L's customers are able to pass along part of the increase to their customers, the results are no better. As James Caplinger, an auto dealer in the small town of England, pointed out, that would merely raise prices throughout town, absorbing disposable income and reducing sales by other retailers.

This effect would be most telling in areas which are heavily dependent upon electricity-intensive industries. State Senator Jim Scott, who represents a district in southern Arkansas, testified that, in five counties, 80 percent is forested. The district has 36 forest industry plants which employ 17 percent of its work force. Most of the rest of the population is indirectly dependent upon the forest industry.

If the plant's workers have to take pay cuts, the effect would be felt throughout five counties.

Another example is Lee County, a rural county that is the 10th poorest in the Nation. Its unemployment ranged from 13.2 to 25 percent in 1984, and 40 percent of the population is on food stamps. If farmers absorb the rate increase, there will be even less money circulating in the county. If they pass it on, food prices will rise, accentuating the rate increases experienced by grocery stores, which operate on narrow margins and use large amounts of electricity.

Increases in food prices would be especially devastating. Cheryl Maxwell, a nutritionist, testified that when faced with new expenses, most families reduce their food purchases. She also pointed out that this change would especially harm low-income families, producing low birthweight babies and various nutritional problems.

Mr. President, the full day of hearings we had on the potential impact of Grand Gulf demonstrated repeatedly that the effects would be devastating and pervasive. We are talking about a commodity, electricity, which has become a necessity, not just to live our lives but to improve them. Each witness brought the value of his or her expertise and experience to the hearing, but perhaps most valuable of all was the simple eloquence of James Duncan who spoke for the Arkansas Cattlemen's Association. He recalled life without electricity and the revolution it produced on farms throughout the county. He remembered how it first meant only a bare light in the kitchen and how they cherished it. He explained how they soon learned to use it as a tool, expanding their efforts, enhancing their strength and multiplying their productivity. All that and more is threatened.

The legislation which we are introducing would simply allow the Arkansas Public Service Commission, as well as other State commissions that are similarly situated, to decide whether rates approved by the FERC should be flowed through to consumers. It would only be allowed to make that decision

for rates based upon construction of generating facilities that it had not approved.

Mr. President, all the illustrations I have used are from the Small Business Committee's hearing in Little Rock, but I promise you there are numerous illustrations, equally dramatic, in Louisiana and other States similarly situated.

This proposal is completely consistent with the original intent of the Federal Power Act. That act was created with the very limited purpose of filling the so-called Attleboro gap, the interstate sales of electricity which were placed beyond State regulatory jurisdiction by the Supreme Court in its 1927 decision in PUC of Rhode Island against Attleboro. The Attleboro decision created a gap in utility regulation which some utilities were able to exploit. Holding companies in particular were able to load their nonoperating costs onto their intrastate utilities, thus increasing those rates. At the same time, they were able to charge whatever the traffic would bear for interstate rates, reaping greater profits because fewer of their costs were associated with those rates.

To close the Attleboro gap Congress passed the Federal Power Act which conferred jurisdiction over interstate sales upon the Federal Power Commission, which is now the FERC. It specifically reserved all other matters to the States, but that reservation has been weakened by subsequent judicial decisions until it is virtually meaningless.

Despite this erosion, the courts have consistently preserved the authority of States to approve or disapprove construction of new facilties. That authority has guaranteed the States a certain minimum authority over a utility's operations, even when it operates in interstate commerce, but even that minimum authority is endangered by the Grand Gulf situation, which could easily be repeated throughout the country.

As I have mentioned, the record shows that before approving AP&L's second large coal plant, the Arkansas Public Service Commission first asked about AP&L's participation in the Grand Gulf plant, over which it had no jurisdiction. It's decision to approve the coal plant was clearly premised upon AP&L's nonparticipation in the Grand Gulf Nuclear Plant. If the FERC forces AP&L to participate in Grand Gulf, it will be undermining the Arkansas commission's decision. More importantly, such a collateral attack by a Federal agency upon a State agency's decision undermines our Federal system, a very troubling result.

My proposal would redress this problem by empowering the State agency to determine the end result of the FERC's order in those circumstances when it has not had the opportunity to consider the initial decision to build electric generating facilities. It would not be a review or potential reversal of a decision issued by the FERC, because FERC's decisions are limited to determining wholesale rates, not the retail rates to be paid by consumers.

This legislation would not interfere with whatever final decision is made by the FERC. It would merely allow the Arkansas Public Service Commission—or the Louisiana Public Service Commission in the Grand Gulf case for that matter—to consider what portion of those rates, if any, should be flowed through to consumers and under what circumstances. The State commission's decision would still be subject to constitutional prohibitions against confiscatory rates, but our bill would allow the State commission the opportunity to make an independent determination whether the utility's costs should be passed on to ratepayers and, if so, to what extent.

It would not produce sudden or unexpected results if the affected utility voluntarily submits the question of plant construction to the affected State commission before irrevocable commitments are made. Consequently, it is a very sensible solution to what could otherwise be a very serious nationwide problem.

In brief, the bill applies whenever there is a transmission or sale of power between associate companies of a public utility holding company system such as Middle South Utilities. In such cases, if FERC sets a rate or charge based in whole or in part on an allocation of electric energy from a generating unit, and a State commission having jurisdiction over the associate company purchasing the power had not approved the construction of the generating unit, then that State commission—or those State commissions—will have the jurisdiction to make a determination, in the words of the bill, "not to take into account all or part of any such federally approved rate or charge in establishing a just and reasonable rate or charge for sales by the associate company."

I want to make clear that within the limits I have described, this bill would give a State commission the authority to determine whether to pass through to retail customers a rate or charge set by the FERC. For example, in the two Grand Gulf cases before the Commission right now, if the Commission were to adopt a rate or charge based in part on a system average cost concept, or other system-wide equalization of cost concept, then a State commission which had not approved the construction of any of the plants on which the application of the system average cost concept was based would have jurisdiction under this bill not to take into account all or part of the federally approved rate or charge. I say this to make clear that, in the context of the two Grand Gulf cases I have mentioned, this bill is not limited just to the Grand Gulf plant that has been completed. The words of the bill make clear that is has much broader application than that.

Mr. President, I commend this bill to my colleagues. My primary motivation for pressing this legislation is to protect 2.3 million Arkansans from a patently unfair ruling that may be handed down by the Federal bureaucracy. But aside from the Grand Gulf cases, this bill makes eminent good sense. States should have more say so in cases like this. This should not simply be a Federal issue, and my bill will restore a more reasonable balance between State and Federal jurisdiction in setting rates involving interstate sales of electricity. I urge my colleagues to give this bill their immediate attention and most serious consideration.

I ask unanimous consent that this bill be printed in the RECORD immediately following my statement.

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

S. 1149

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 "Ratepayer Protection Act of 1985".

SEC. 2. Subsection (a) of section 206 of the Federal Power Act (16 U.S.C. 824e(a)) is amended by—

(1) inserting "(1)" after "(a)"; and

(2) inserting after paragraph (1) as so designated by this section the following:

"(2)(A) Notwithstanding any other provision of this Act, if—

"(i) a rate or charge fixed or permitted to take effect by the Commission is—

"(I) applicable to the transmission or sale of electric energy subject to the jurisdiction of the Commission by an associate company of a public utility holding company system to any other associate company of such system; and

"(II) based in whole or in part upon an allocation of electric energy or costs of production of electric energy from a generating unit; and

"(ii) the associate company receiving or purchasing the electric energy or being allocated such production costs is subject to the jurisdiction of a State commission which had not approved the construction of such generating unit.

then each such State commission which had not approved the construction shall have jurisdiction to make a determination not to take into account all or part of any such federally approved rate or charge in establishing a just and reasonable rate or charge for sales by the associate company.

"(B) The terms 'holding company system' and 'associate company' as used in this paragraph shall have the meanings provided by section 2 of the Public Utility Holding Company Act of 1935.".

SEC. 3. The amendments made by this Act shall apply to any rate or charge fixed or permitted to take effect pursuant to a final order issued by the Federal Energy Regulatory Commission on or after May 1, 1985.

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas [Mr. PRYOR] is recognized for not to exceed 15 minutes.

Mr. PRYOR. Mr. President, today I join my colleague from Arkansas, Senator BUMPERS, in introducing a bill that would, in certain limited situations, give the public service commission [PSC] or public utility commission in each State jurisdiction to review electric rates based on the costs of construction of new generating facilities. Under the bill, the jurisdiction of the State regulatory agency would only attach when an associate company of a public utility holding company is involved, and the associate company is subject to regulation by a State commission which had not approved the construction of the new generating facility.

This bill will address a situation currently facing Arkansas ratepayers. They are being asked to pay for a portion of the costs of the construction of a nuclear facility in another State, and Arkansans neither need nor want any of the power produced by the plant. While this bill is designed to deal with this problem, Mr. President, other States could find themselves in similar situations. As I will explain in a moment, the State regulatory process—which protects the ratepayers in that particular State—can be sidestepped, and that is exactly what happened in the State of Arkansas.

Let me briefly explain to my colleagues the situation now facing the ratepayers of the State of Arkansas.

In the early 1970's Middle South Energy, Inc.—a subsidiary of Middle South Utility established solely for the construction of nuclear plants—began construction of two nuclear plants—Grand Gulf I and Grand Gulf II. Middle South Utility is the parent and has four operating companies—Arkansas Power & Light [AP&L], Mississippi Power & Light [MP&L], Louisiana Power & Light [LP&L], and New Orleans Public Service, Inc. [NOPSI].

The two nuclear powerplants were to be constructed in Port Gibson, MS. At the time construction was begun, both plants were estimated to cost $1.2 billion. Today, $3.6 billion has been spent. Grand Gulf I is now completed, although not in full operation, and Grand Gulf II is about one-third complete. Under the original plan, Middle South Energy would sell the energy produced to each of the operating companies. Since the power would be sold across State lines, Mr. President, rates would be determined by the Federal Energy Regulatory Commission [FERC], and not by the State utility regulatory commission.

When the decision was made to construct these two nuclear plants, Mr. President, agreements were made by the Middle South operating companies on how to share in the costs in the event the plants never became operational. AP&L was assigned a relatively small percentage.

If, however, the plants became operational it was assumed that each of the operating companies would pay a floating percentage depending upon the amount of power used. In fact, in 1977 officials of Middle South testified before the Arkansas Public Service Commission and stated that Arkansas ratepayers wouldn't have to share in the costs of the plant if we didn't use any of the power generated. It was then assumed by AP&L, and State authorities, that unless Arkansas energy needs required it, no power or cost allocation would accrue to the citizens of Arkansas. In keeping with this arrangement and later estimates, Middle South Utility in 1981 assigned a fixed percentage of the power from the Grand Gulf units to its four operating companies. Under this agreement, however, AP&L wasn't given any portion since Arkansas didn't need any of the power, but the percentage allocations were made to the other three companies. It's important to keep in mind, Mr. President, that during this time when the parent company, MSU, and its construction subsidiary, MSE, were entering into agreements with the four operating companies on how to allocate costs and power, the utility regulatory commissions had no jurisdiction to review the rates based on these costs.

The fixed allocations—under which AP&L was given a zero share in Grand Gulf—were held invalid by an administrative law judge of the FERC in 1984. His ruling was that AP&L, and ultimately the ratepayers of the State of Arkansas, were responsible for about one-third of the cost of the Grand Gulf unit. This decision, if it finally goes into effect, Mr. President, will have a devastating effect on the entire economy of the State of Arkansas, and it will have gone into effect without the public service commission of the State of Arkansas from ever having passed on the rates to be imposed on the citizens of the State.

Mr. President, late last year my colleague from Arkansas, Mr. BUMPERS, held a hearing in Little Rock, AR, on how this decision would affect businesses and farmers in our State. The overwhelming sentiment of those who testified or submitted statements for the record was that such a precipitous increase in utility costs would have an utterly devastating impact on the total Arkansas economy. The timber industry, cattlemen, milk producers, independent grocers, rice, soybean and cotton farmers, and manufacturers of all sizes testified that their operations would be severely hurt if AP&L is forced to take an allocation of Grand Gulf.

During the last Congress, Senator BUMPERS and I introduced legislation that would have amended the Federal Power Act by prohibiting the FERC's authority to order public utilities to purchase power or share in the construction costs for an generating facfility the title of which is held by some other entity.

The bill we are introducing today, Mr. President, is different in this respect—it does not prohibit the FERC from ordering an associate company of a public utility holding company to purchase power from another associate company. But, it does require that if such a purchase occurs, and if the rates are based in any way on the allocation of costs for a new generating unit, these rates will be subject to the jurisdiction of any State's utility regulatory agency, which has not approved construction of the new generating unit. It seems only fair, Mr. President, that State utility regulatory agencies, who had no say over the decision to construct the facility, should have some authority to review rates that will be imposed on the ratepayers of that State as a result of the costs of construction of the new unit.

This is not an overly complex bill, Mr. President, but it is one that should prevent the circumvention of a regulatory commission established to ensure fair and reasonable utility rates. The Grand Gulf case shows very clearly why this bill is needed. Arkansas ratepayers could be saddled with much higher electric rates based on the costs of the construction of a nuclear facility in another State, without the Arkansas regulators ever having had any authority to review the rates. The bill we are introducing today would give the States some authority in this area, and would restore some balance between State and Federal regulation to this very critical and important area.

I commend my colleague, Mr. BUMPERS, for his efforts, and I urge my colleagues to carefully review this very important measure.

RECOGNITION OF SENATOR DIXON

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois is recognized for not to exceed 15 minutes.

Mr. DIXON. I thank the Chair.

S. 1151—FARM CREDIT RELIEF ACT OF 1985

Mr. DIXON. Mr. President, the first thing I wish to do is to introduce a very novel and I think ingenious response to the credit problem in American agriculture. It is a bill cosponsored by Senator BENNETT JOHNSTON of Louisiana, Senator DAVID PRYOR of Arkansas, Senator JIM SASSER of Tennessee,

Senator DON RIEGLE of Michigan, and myself.

Mr. President, as the Senate knows only too well, American agriculture is in trouble. I will not take time this morning to outline the reasons behind the agricultural crisis; I've spoken on that subject numerous times before.

One of the most troubling aspects of the farm crisis is the explosion of farm debt. Farmers now owe more than $215 billion, and the simple truth is that too-low prices for agricultural products means that it is more and more difficult for farmers to service that debt.

Farm prices are down, and the value of farm land has dropped by as much as a third or even more. Bankruptcies, however, are way up, and unless we are able to provide some desperately needed assistance, the current appalling bankruptcy rate is likely to go much, much higher.

Unless we act, many of our Nation's full-time farmers will be wiped out. The shakiest of these mid-sized farmers owes nearly a third of total farm debt—over $73 billion—an amount that dwarfs the troubled Latin American debt held by the Nation's largest banks.

Farm debt, however, unlike foreign debt, is not held largely by money center banks. It is held by the Nation's more than 4,200 agricultural banks. These banks are small in size, but they are of vital importance to their communities.

While they do not hold the bulk of long-term debt, agricultural banks are a major source of operating loans and other short-term loans. According to the Comptroller of the Currency, banks hold about only $9 billion of the $112 billion in long-term debt, or about 8 percent, but they hold almost 40 percent of the $103 billion in short-term debt, or almost $40 billion. This is a serious problem because while most farmers do have the resources to service their long-term debt, many can no longer also meet their short-term debt obligations.

The farm crisis is therefore having a major effect on agricultural banks. The number of banks on the problem list is at an all-time high, and the number of bank failures is increasing, even though we are in the third year of economic recovery. More than 1,700 banks have more than 50 percent of their portfolios in agricultural loans. They are literally being crushed by the depression in the agricultural economy.

In order to address the terrible problems affecting both farmers and agricultural banks, I am joining my distinguished colleagues, Senators JOHNSTON, PRYOR, RIEGLE, and SASSER in introducing the Farm Credit Relief Act of 1985. This legislation does not pretend to be a complete answer to the farm crisis, but it will provide needed breathing room for both farmers and bankers. It can help farmers to move back toward profitability, and it can help take the pressure off the capital of agricultural banks, allowing the banks to continue to provide needed agricultural financing.

The heart of the legislation is a provision that permits agricultural banks to write down loans from their book value to their fair market value. Banks can do this now, but under current law they must deduct the amount written off from their capital all at once. Even though agricultural banks are well-capitalized, they cannot withstand losses of this magnitude, so banks are forced to foreclose rather than write down loans. This benefits neither the banks nor the farmers.

Under the Farm Credit Relief Act, on the other hand, the amount written down could be amortized over a period of up to 30 years. Banks could renegotiate with the borrowers for repayment of the remaining portion of the loans eligible for this assistance. However, if a farmer defaulted on the remaining portion of the loan or sold his land, the farmer would be responsible for repaying not only the unpaid portion of the remaining loan, but also the portion of the written-down amount that had not yet been amortized. Any loan made to finance agricultural production, including the unguaranteed portion of FmHA or SBA guaranteed loans, made by an eligible bank, is qualified for this favorable amortization treatment.

I know this sounds complicated, but I think an example illustrates the benefits this provides for both farmers and banks. Assume a farmer owes his bank $1.5 million, but that the collateral securing that debt is only worth $600,000. Under this proposal, rather than the farmer defaulting on the loan and losing his farm, the farmer and the bank could renegotiate a new payment schedule and a smaller, written down loan.

The farmer and the bank could agree to write down the loan to $600,000, and create a repayment schedule that the farmer's cash flow could support. The bank would write off the remaining $900,000, over 30 years—$30,000 per year—which is much better for the bank than taking the writeoff all the first year, which is what happens if it has to foreclose on the loan. Further, the bank doesn't have to acquire the property, or manage it, and continues its relationship with the farmer.

If the farmer were to default or sell the land, say 10 years later, then the farmer would owe any unpaid amount on the $600,000 loan plus the amount of the $900,000 that had not yet been amortized. In this case, at the end of 10 years, $300,000 would have been amortized—$30,000 per year times 10 years—leaving $600,000 of the $900,000 that the farmer would have to repay, along with, as I stated before, any unpaid portion of the written-down original loan.

All banks with assets of less than $200 million, and which have at least 25 percent of their assets in agricultural loans would be eligible for this renegotiation and amortization treatment with the approval of the Federal Deposit Insurance Corporation. In addition, the FDIC could permit banks with somewhat less than 25 percent of their portfolios in agricultural loans to take advantage of the benefits of this bill. All eligible banks, in order to remain eligible, would have to agree to maintain a presence in agricultural lending, so that their aggegate level of agricultural loans would not fall below the level of such loans in its portfolio on January 1, 1985.

Additional provisions in the bill would permit eligible banks to:

Make use of regulatory accounting methods, in a manner similar to that used in the thrift industry, and which was specifically approved by Congress in the 1982 Garn-St Germain Act;

Reappraise the bank building and show any increase between fair market value and the book value of the building in the capital accounts of the bank;

Mark to market the value of real estate or other property owned by the bank on January 1, 1985, or acquired within the succeeding 10 years, and charge off any loss over a 30-year period;

Amortize the expenses incurred in operating and managing real property on its books—such as a foreclosed farm—over a 20 year period; and

Mark to market and sell eligible securities in its portfolio and charge off any loss recognized over a 30 year period.

Mr. President, I believe this bill can provide real help to both farmers and banks that need and deserve that help. It is, as I stated earlier, in no sense a complete answer to the problems facing the agricultural economy. It does, however, represent a real step forward. We have provided assistance for the savings and loan industry, and for troubled foreign loans in the past. I think American farmers are at least as deserving of help as Mexico, Argentina, and Brazil.

We are currently facing a real budget crisis. That means the Federal Government does not have the financial resources to directly provide all the financial resources that are needed, and that means that we should pay particular attention to suggestions, such as this one, which provide assistance without direct cost to the Federal Treasury.

The Farm Credit Relief Act can work. It will work. I urge the Senate, therefore, to give this bill its most

careful consideration, and to enact it as quickly as is possible.

Mr. President, I ask unanimous consent that a copy of the bill be printed at this point in the RECORD.

Mr. President, I ask unanimous consent that a copy of the bill be printed at this point in the RECORD. The bill is in the possession of the Parliamentarian.

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

S. 1151

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 "Farm Credit Relief Act of 1985".

SEC. 2. (a) Section 13 of the Federal Deposit Insurance Act (12 U.S.C. 1823) is amended by adding at the end thereof the following:

"(j)(1) With the consent of the Corporation, which shall not be unreasonably withheld, and upon the recommendation of the appropriate Federal banking agency or a State bank commissioner or on its own motion, the Corporation may by order, regulation, or otherwise authorize one or more of the actions referred to in paragraph (2) to be taken by an agricultural bank. The Corporation may not authorize any such action unless—

"(A) such action will enable the agricultural bank to survive, remain viable, and show a net profit; and

"(B) there is no evidence of fraud or gross mismanagement by the management of the agricultural bank.

"(2) The actions which may be authorized under this subsection are as follows:

"(A) The agricultural bank may file financial reports in accordance with regulatory accounting practices, and use push down or purchase method accounting principles.

"(B) The agricultural bank may reappraise its buildings and other tangible property, real or personal, and any increase between fair market value and the book value of such property may be credited to the capital accounts of the agricultural bank.

"(C) The agricultural bank may renegotiate and reamortize on an amortization schedule not to exceed 30 years qualifed problem loans owned by the agricultural bank as of January 1, 1985, and additional qualified problem loans renewed or made by the agricultural bank after January 1, 1985, but prior to January 1, 1995. In the event a renegotiated loan is prepaid or at the maturity of the renegotiated loan, or in the event of default by the borrower in the repayment of the renegotiated loan, or in the event any collateral securing the renegotiated loan is sold without the prior written consent of the agricultural bank, the borrower, at the option of the bank, shall be obligated to repay the principal balance due on the renegotiated loan, plus accrued interest, plus that portion of the difference between the principal of and accrued interest on the qualified problem loan and the beginning principal balance of the renegotiated loan which has not been charged off by the agricultural bank. The terms of the renegotiation and reamortization of the renegotiated loan, including, by way of illustration only, the rate of interest to be charged, shall be at the sole discretion of the agricultural bank. The agricultural bank may charge off the difference between the principal of and accrued interest on the qualifed problem loan or loans and the beginning principal balance of the renegotiated loan or loans over a 30-year period.

"(D) The agricultural bank may mark to market the value of any real estate or other property, real or personal, owned by the agricultural bank on January 1, 1985, and any additional property subsequently acquired by the agricultural bank prior to January 1, 1985, and charge off any loss recognized over a 30-year period. Market value may be determined by income approach to value, cost approach, comparable sales approach, or such other acceptable method of valuation.

"(E) With respect to the expenses incurred by the agricultural bank related to the ownership of the real estate or other property referred to in subparagraph (D) above, including, by way of illustration only, the payment of real estate taxes, personal property taxes, insurance premiums, and payments to senior lien holders, the agricultural bank may write off such expenses over a 20-year period.

"(F) The agricultural bank may mark to market and sell any securities held in its investment portfolio as of January 1, 1985, and any additional securities subsequently acquired by the agricultural bank prior to January 1, 1995, and charge off any loss recognized over a 30-year period.

"(3) As a condition of eligibility under this subsection, the agricultural bank must agree to maintain in its loan portfolio a percentage of agricultural loans which is not lower than the percentage of such loans in its loan portfolio on January 1, 1985.

"(4) As used in this subsection—

"(A) the term 'agricultural bank' means—

"(i) a bank which is located in an agricultural area whose economy is dependent on agriculture;

"(ii) a bank which has assets of $200,000,000, or less; and

"(iii)(I) a bank which has at least 25 percent or more of its total loans in agricultural loans which were made to finance the acquisition of farm real estate or farm equipment and the production of agricultural products or livestock in the United States; or

"(II) a bank which has fewer than 25 percent of its total loans in agricultural loans but which the appropriate Federal banking agency or State bank commissioner may recommend to the Corporation as eligible, or the Corporation, on its own motion, may deem eligible;

"(B) the term 'qualified problem loan' means a loan made to finance the production of agricultural products or livestock in the United States, a loan secured by farm land or farm machinery, or the uninsured or unguaranteed portion of any Farmers' Home Administration or Small Business Administration loan serviced by the agricultural bank, or such other category of loans as the appropriate Federal banking agency or State bank commissioner may recommend to the Corporation as eligible, or the Corporation, on its own motion, may deem eligible in order to allow the agricultural bank to remain viable.".

(b) Paragraph (1) of section 172(b) of the Internal Revenue Code of 1954 (relating to net operating loss carrybacks and carryovers) is amended—

(1) by adding at the end thereof the following new subparagraph:

"(L) In the case of a financial institution, a net operating loss for any taxable year beginning after December 31, 1984, with respect to any loan or security which is subject to the provisions of section 13(j) of the Federal Deposit Insurance Act, shall be a net operating loss carryover to each of the 30 taxable years following the taxable year of such loss.",

(2) by striking out "and (k)" in subparagraph (A) and inserting in lieu thereof "(K), and (L)"; and

(3) by striking out "and (J)" in subparagraph (B) and inserting in lieu thereof "(J), and (L)".

Mr. DIXON. Mr. President, may I ask unanimous consent that the RECORD on this question be left open throughout this day so that additional cosponsors may join us in respect to this legislation.

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

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

THE SECOND MIRACLE

Mr. DIXON. Mr. President, now I shall address a problem concerning what took place yesterday in the Armed Services Committee, a matter that the President himself is familiar with as well, particularly in view of the fact that we served together on the Preparedness Subcommittee which he chairs and upon which I am the ranking member.

I congratulate the Department of Defense for making known to us unexpended moneys held by the Department of Defense which can be viewed as "savings" to help us in connection with the serious problems we face as we try to reduce the budgetary deficit, and address questions involving expenditures for the military that some of us think have gotten out of line in the last several years, so I would not want anything I say here to be interpreted as a criticism of the Department of Defense for saving this money. To the extent that they are making available to us unexpended funds I thank them for doing that and encourage them to do it in the future.

But I know that I express the shock generally felt by members of the Armed Services Committee on both sides of the aisle when the Department of Defense appeared before us yesterday and said that they had found over $4 billion. I am advised that at first it was indicated to some on the committee that they had found almost $5 billion in savings.

I thank the Department of Defense for finding the money and I am delighted to have participated, Mr. President, in a real true observation of the second miracle.

The first miracle was 2,000 years ago. None of us had the pleasure of being there at that time. But yesterday in the Armed Services Committee, after the work of the Senate, after the earlier work of the Armed Services Committee which took weeks, after

the labor of the Senate which took weeks, and exhausted the membership, a miracle took place, Mr. President, a miracle.

All along the Department of Defense had the money. Is that not wonderful? Why did we work all those weeks in committee? Why did we mark to zero, 3 and 4 percent growth? Why did we work all those interminable hours here on the floor well into the morning and exhaust our membership when all the time the money was there? All the time the Department of Defense had that money? A miracle, Mr. President.

As the President knows in the Preparedness Subcommittee upon which I serve with him and which he serves this Nation so diligently, as the ranking minority member I asked questions of everyone who came before us, asking them about the savings that might be derived contractually, that could be derived by virtue of the inflationary amounts we permit for fuel for our ships, aircraft, and the military generally.

No one knew, Mr. President. It was confusing. Everyone was evasive.

Then on March 15 I sent a letter to the Honorable Robert W. Helm who was before us yesterday, the Assistant Secretary of Defense, the Comptroller, at the Pentagon. On March 22 he advised me by return letter and answered my questions and I ask unanimous consent, Mr. President, that this exchange of communications be printed in the RECORD at this point.

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

COMMITTEE ON ARMED SERVICES,
Washington, DC, March 15, 1985.

Hon. ROBERT W. HELM,
Assistant Secretary of Defense (Comptroller), The Pentagon, Washington, DC.

DEAR MR. SECRETARY: At a recent hearing of the Preparedness Subcommittee of the Committee on Armed Services, I questioned military witnesses on the extent to which price savings were being achieved in the execution of their FY1985 Stock Fund and Operation and Maintenance programs above the level anticipated in final Congressional Authorization and Appropriation and Appropriation action on the FY1985 Defense budget. The answers of these witnesses suggested that such price savings were in fact occurring in FY1985.

As Congress continues to review the FY1986 Defense budget, it is important that we take advantage of every opportunity to achieve savings based on lower than anticipated inflation or contract prices. Rather than pursue this issue individually with each of the military services, I have posed a series of questions on this matter which are enclosed.

Since our Committee plans to begin marking up the FY1986 Defense Authorization bill shortly, I would appreciate your written response to these questions no later than March 22, 1985.

Thank you for your attention to this matter.

Sincerely,

ALAN J. DIXON,
Ranking Minority Member, Subcommittee on Preparedness.

QUESTIONS FROM SENATOR ALAN J. DIXON

1. Last year during the Conference on the FY1985 Defense Authorization Bill your office informed the Committee that over $1 billion in unanticipated savings due to lower inflation and better contract prices were available in the accounts under the Preparedness Subcommittee's jurisdiction that could be used to meet the Congressional reduction target.

Did Congress remove all of these price savings in the Operation and Maintenance and Stock Fund accounts in the final FY1985 authorization and appropriation bills?

How much in price savings was left in these accounts in FY1985 after final Congressional action last year?

2. Are additional price savings, either through lower inflation, better contract prices, or any other reason, being experienced in the execution of the FY1985 program that were not anticipated either in final Congressional action on the FY1985 Operation and Maintenance or Stock Fund requests, or in the FY1986 budget request submitted to the Congress?

How much is involved in these price savings, and what accounts are affected?

3. What would be the impact of reducing the FY1986 Operation and Maintenance or Stock Fund requests to reflect these more favorable prices in the execution of the FY1985 program?

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, March 22, 1985.

Hon. ALAN J. DIXON,
Subcommittee on Preparedness, Committee on Armed Services, Washington, DC.

DEAR SENATOR: This responds to your letter dated March 15, 1985 which requested answers to several questions you posed regarding FY 1985 and FY 1986 savings in the O&M and Stock Fund accounts from revised inflation estimates. The answers to your questions are enclosed. I hope this information will be helpful during your deliberations on authorization. If I can be of further assistance, please let me know.

Sincerely,

ROBERT W. HELM,
Assistant Secretary of Defense.

Enclosure.

Question: Last year during the Conference on the FY 1985 Defense Authorization Bill your office informed the Committee that over $1 billion in unanticipated savings due to lower inflation and better contract prices were available in the accounts under the Preparedness Subcommittee's jurisdiction that could be used to meet the congressional reduction target.

Did Congress remove all of these price savings in the Operation and Maintenance and Stock Fund accounts in the final FY 1985 authorization and appropriation bills? How much in price savings was left in these accounts in FY 1985 after final congressional action last year?

Answer: Congress removed a total of $2.6 billion from the Service O&M appropriations for working capital fund inflation and price adjustments and foreign currency rate improvements in the FY 1985 appropriation act. A breakdown of these adjustments is attached hereto.

These reductions covered all of the FY 1985 changes known at the time authorization/appropriations actions were being completed. Subsequent to the close of FY 1984, in part as a result of an OMB change in the inflation indices for FY 1985, additional savings became identified. For the Stock Funds, approximately $150 million in unanticipated FY 1984 savings and $850 million in projected FY 1985 savings, due to lower than anticipated costs and the inflation rate change, were not reflected in the congressional reductions for FY 1985. However, these savings have included in determining the FY 1986 Stock Fund prices for the O&M customers, which reflect an average reduction of 12 percent. This practice of adjusting Stock Fund prices in the budget year for current year cost variances is in keeping with the stabilized rate policy of the department which guarantees customers a set budgeted price that remains unchanged during the year of execution.

Similarly, $260 million for O&M purchases related to the other purchases rate change from 4.8 to 3.9 percent made by OMB in December 1984 was not reflected. This price change has been fully reflected in the FY 1985 column of the FY 1986 President's budget and the FY 1986 budget baseline has also been reduced to reflect these savings.

Question: Are additional price savings either through lower inflation, better contract prices, or any other reason being experienced in the execution of the FY 1985 program that were not anticipated either in final congressional action on the FY 1985 Operation and Maintenance or Stock Fund requests, or in the FY 1986 budget request submitted to the Congress? How much is involved in these price savings, and what accounts are affected?

Answer: For Stock Fund nonfuel and general O&M purchases, experience to date indicates that costs have been essentially as projected. We do not have sufficient cost data at this time to cause us to project a change in the inflation rate affecting such purchases. However, cumulative Stock Fund fuel costs through February are $35.79 per barrel vice the $36.12 price projected. Should this experience hold, a savings of $63 million in the O&M accounts would result. We believe it would be premature to identify this as excess to requirements at the present time since available March data indicates the current rise in spot market prices may eliminate the savings achieved to date.

The O&M accounts have experienced FY 1985 savings so far in overseas purchases resulting from the strength of the dollar in relation to foreign currencies. If the average conversion rates for the year turn out to equal the March 8, 1985 rates, a savings of $120 million in the O&M accounts would accrue.

Question: What would be the impact of reducing the FY 1986 Operation and Maintenance or Stock Fund requests to reflect these more favorable prices in the execution of the FY 1985 program?

Answer: If reductions are made and more favorable prices do not materialize, adverse impacts would occur in the O&M program and/or in the operation of the Stock Funds as a result of inadequate cash balances. As indicated in the previous answers, known savings of $1 billion from FY 1984 and FY 1985 cost changes not considered in the FY 1985 appropriated amounts have already been reflected in reduced FY 1986 Stock Fund prices.

Mr. DIXON. I leave it to the country to read what transpired and to see whether the Department of Defense told this Senator, who was involved in his responsibilities as a member of the Armed Services Committee and as the ranking minority member of the Preparedness Subcommittee, much of anything. In my view, they did not.

Now, Mr. President, all of this again addresses the integrity of the military establishment and the Pentagon and the people in this country who come to us saying how desperately we need these additional funds. The $700 toilet seats, the $7,500 coffee urns and all those things damage that integrity. And then when those people come to us and cry for more money and evade our questions and make defense budgeting an adversary proceeding.

Congress is trying to work with them in the interest of our national defense, and when they do that they again damage their integrity in the eyes of the Nation and I think it should be questioned. Their integrity should be questioned in the eyes of the Nation.

I say why is this an adversary proceeding? Why do we not have the right to know? We are Congress and it is our responsibility to know because we serve the people we represent and yet they do not treat us in that fashion, Mr. President. They treat us as the adversary. They treat us as the enemy. The enemy is overseas, Mr. President, not here in the Senate.

Now, they have had their day and they have won, but let me say that what they have done is contrary to the best interests of this country and I want to say this so the Nation knows.

They come to us and they say that we have damaged them by the cuts that have been made. Let me put the facts on the record.

The Pentagon requested in missiles and torpedoes, let the record show, 120,130 missiles and torpedoes requested. And with zero growth, what have they received? Why they have received—maybe this is the third miracle—120,280. They ended up getting 150 missiles more than they even asked for.

Mr. President, in every single line item concerning the military obligations of this great Nation of ours, I am here to state on the record so there can never be any doubt about it, and I ask that those who would take issue with me to come here and argue against what I say, they have done perfectly. Combat aircraft, Mr. President—the Department of Defense requested 807 combat aircraft and after we met and we labored in the committees and after we worked to reduce spending to zero real growth, and after we fought on the floor for 2 weeks late into the nights to get zero real growth, instead of 807 they are going to get 804. I do not know how they will live with it but they must. Instead of 807 they will unfortunately receive only 804.

And so I am here to say what a member of the Department of Defense said—and one of my friends witnessed it being said, and I assert on this floor that it is true—that at zero growth they have gotten what they sought at 3 percent growth. They have gotten the 3 percent requests because they found that $4 billion.

And so I want to say this in conclusion, Mr. President, because I realize that time is short and that we are going on to other business, I intend to introduce legislation, Mr. President, that requires in the future the Department of Defense must come to the Armed Services Committees of the Senate and the House and be forthright and honest and revealing and above board and show us every month exactly what the account is in their savings under inflationary experience, under contractual relationships, under lapsed contracts, and other things so that we can truly know what the situation is when we try to mark up a defense authorization bill in the future.

In all my time in government, which spans over three decades, Mr. President, I have never in my lifetime seen a more contrived, artful, deliberate, planned attempt to use the Congress—to use it—to let us seem to work our will and when our laborious work was done, to win in one fell swoop, with one move of the pencil, every battle fought. It is a dark day for truth in government, a sad one for the country, and one that ought not be permitted to again take place in future sessions of the Congress.

Mr. President, I ask unanimous consent to have printed in the RECORD four pages of figures indicating the requests of the Department of Defense and the amounts allowed on missiles, torpedoes, aircraft, shims, and other things at the zero growth rate.

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

COMPARISON OF RECOMMENDATIONS AT 3 PERCENT AND 0 PERCENT BUDGET LEVELS VERSUS THE BUDGET REQUEST

	Fiscal year 1986			
	Request	3 percent	0 percent	3 to 0 percent
Aircraft:				
EH-60	18	18	18	0
AH-64	144	144	144	0
UH-60	78	78	78	0
A-6E	6	6	6	0
EA-6B	12	12	12	0
AV-8B	46	43	43	0
F-14	18	15	15	0
F/A-18	84	84	84	0
CH-53	14	14	14	0
AH-1T	22	22	22	0
SH-60	18	24	24	0
P-3C	9	9	9	0
E-2	6	6	6	0
SH-2F	6	6	0	−6
C-2	8	8	8	0
E-6	2	2	2	0
B-1B	48	48	48	0
F-15	48	48	48	0

COMPARISON OF RECOMMENDATIONS AT 3 PERCENT AND 0 PERCENT BUDGET LEVELS VERSUS THE BUDGET REQUEST—Continued

	Fiscal year 1986			
	Request	3 percent	0 percent	3 to 0 percent
F-16	180	180	180	0
KC-10	12	12	12	0
MC-130	1	1	1	0
C-5B	16	16	16	0
C-130	0	8	8	0
HH-60	3	3	0	−3
TR-1	8	8	6	−2
Trainers/administrative:				
UC-12B	12	0	0	0
VH-60	9	9	9	0
T-34	38	0	0	0
F-16 (adversary)	12	12	12	0
C-20	8	8	8	0
T-46	33	33	33	0
Total aircraft	919	877	866	−11
Total combat aircraft (net trainers/admin.)	807	815	804	−11
Missiles/torpedoes:				
Chaparral	300	300	300	0
Patriot	585	585	585	0
Stinger	3,439	3,439	3,439	0
Hellfire:				
Army	6,576	6,576	6,576	0
Navy	1,304	1,304	1,304	0
TOW II	20,100	20,100	20,100	0
MLRS	72,000	72,000	72,000	0
Tomahawk	249	249	249	0
Sparrow:				
Navy	1,872	1,872	1,872	0
Air Force	425	425	425	0
Sidewinder:				
Navy	1,220	1,220	1,220	0
Air Force	800	800	800	0
Phoenix	265	265	265	0
Harpoon:				
Navy	395	395	395	0
Air Force				
HARM:				
Navy	904	904	904	0
Air Force	1,715	1,715	1,715	0
SM 1 MR				
SM 2 MR	846	846	846	0
SM 2 ER	470	470	470	0
RAM	117	117	117	0
Sidearm	168	168	168	0
Laser Maverick	1,500	1,500	1,500	0
IIR Maverick:				
Navy	195	195	195	0
Air Force	3,500	3,500	3,500	0
AGM-130	97	97	97	0
AMRAAM	90	90	90	0
GLCM	95	95	95	0
MK 48 Torpedo	123	123	123	0
MK 46 Torpedo	500	500	500	0
Captor Mine	0	150	150	0
MK 67 Mobile Mine	280	280	280	0
Total missiles/torpedoes	120,130	120,280	120,280	0
Shipbuilding/conversions:				
Trident	1	1	1	0
SSN-688	4	4	4	0
CV SLEP				
CG-47	3	3	3	0
DDG-51				
LSD-41	2	2	2	0
LHD-1	1	1	1	0
MCM	4	2	2	0
MSH	4	4	4	0
TAO	2	2	2	0
TAGOS	2	2	2	0
AG Sound Barge	1	1	1	0
TAGS surveying ships:				
LCAC	12	12	12	0
Conversions				
TACS	3	3	3	0
TAVB	1	1	1	0
Total shipbuilding and conversions	40	38	38	0
Weapons, tracked combat vehicles:				
M577 CP Carrier	115	115	115	0
M113 APC	325	325	325	0
Bradley FVS	716	716	716	0
M109 Howitzer	0	0	0	0
Field Arty Supt Veh	197	197	0	−197
M88 Recov Veh	240	240	240	0
M1 Tank	840	840	840	0
DIVAD	117	37	37	0

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. EVANS). Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 11:30 a.m. with statements therein limited to 5 minutes each.

1140—AMENDMENTS TO THE PETROLEUM MARKETING PRACTICES ACT

Mr. DECONCINI. I am pleased to join as a cosponsor and strong supporter of this bill making amendments to the Petroleum Marketing Practices Act. The original act, enacted 6 years ago, was designed to enhance fair and open competition in the oil marketing industry by preventing unreasonable termination of marketers' franchise agreements with their suppliers. Experience has shown that more legislative action is needed if the original goals are to be met.

Independent distributors and retailers of motor fuel occupy a key position in the competitive structure of the petroleum industry. There are approximately 135,000 retail service station dealers in the United States; they supply the Nation with 75 percent of its motor fuel needs. However, over the past several years, their numbers have declined drastically. It is the opinion of many observers of this industry that predatory marketing practices by large refiners has been the prime cause for this decline.

The bill introduced today will hopefully stop this trend by adding a number of safeguards to the rights of independent retail dealers. Among these rights guaranteed by the bill are: Prohibition against franchisors from engaging in anticompetitive pricing practices in instances where they are in competition with their own franchisees; changes in renewal of the franchise agreement must be fair and reasonable; arbitrary conversions of full-service stations to pumper stations is prohibited; gives franchisees a right of first refusal to purchase their stations; and prohibits franchisors from discriminating in price and allocation policies between its classes of franchisees.

Experience in several States such as Maryland, Delaware, and Washington, DC show that competition at the retail level is intensified by preserving independent competition. It is no coincidence that recent studies have shown these three entities also have lowest prices on self-service unleaded regular on the east coast and are among the lowest in the country.

This bill is not protectionist; it is proconsumer. It does not set up a new regulatory bureaucracy for enforcement. Its purpose is to guarantee healthy and vigorous competition among retailers, distributors, and refiners in the petroleum industry. This bill has been the subject of several days of hearings before the Judiciary Committee in previous Congresses and I hope that its processing can be expedited this year. We have as complete a record as we'll ever get; the time to act is now.

AAB ADMINISTRATOR HONORED

Mr. EAGLETON. Mr. President, later this month the American Association of Bioanalysts, headquartered in St. Louis, will present its highest award to long-time AAB Administrator David Birenbaum. Mr. Birenbaum, AAB Administrator since 1965, will receive the fourth Lucien Dean Hertert Memorial Award on May 24 during the 1985 Educational Conference and Annual Meeting of AAB.

The Lucien Dean Hertert Memorial Award was established in 1980 at the Silver Anniversary of the founding of the American Association of Bioanalysts [AAB]. The award is given, at the discretion of the AAB Board of Directors, to an individual who exemplifies the dedication, loyalty, and service that Lucien Hertert, a founding member of AAB and its first Executive Secretary from 1951 to 1962, gave to the profession of Bioanalysis.

Certainly Mr. Birenbaum is a most worthy recipient of this honor. Mr. Birenbaum directed AAB through the initial phase of Medicare reimbursement and was instrumental in establishing the community laboratory as an integral part of the health care network. He led the AAB in developing both proficiency testing for laboratories and proficiency exams as an alternate route of advancement for laboratory professionals.

In addition to his work with the AAB, Mr. Birenbaum has also served as chairman of the National Council for Health Laboratory Services; chairman of the Task Force on Role Delineation for the American Society for Allied Health Professions; Founding Board Member of PRIDE, a St. Louis Labor/Management Construction Industry organization; and as trustee of several union health and welfare, and pension funds.

I am pleased to join Mr. Birenbaum's many friends and colleagues in congratulating him on receiving this honor.

DOMESTIC SUGAR INDUSTRY

Mr. INOUYE. Mr. President, it is my privilege today to make the third in an ongoing series of statements on behalf of our domestic sugar industry. In past remarks, I have emphasized the disastrous economic consequences that would result from doing away with the current sugar program; I have also analyzed why the world sugar market and certain trade practices by our allies compel us to protect American farmers from unfair foreign competition, and how the sugar program benefits countries who export to the United States under the current quota system.

Today, I would like to highlight one of the direct benefits of the sugar program: the revenue it has generated for the Treasury over the last 3 years.

I have often made the point that the sugar price support program operates at no cost to the American taxpayer. The Hawaiian Sugar Planters Association, in its Sugar News of May 8, 1985, points out that in fact, the Federal Government has earned $355.2 million from the sugar provisions of the Agriculture and Food Act of 1981 since its enactment; $350.3 million of these revenues came from duties and fees imposed on imported sugar, while $4.9 million represents income from interest earned that exceeded the cost of the Government's loans to sugar producers. No sugar has been forfeited to the Commodity Credit Corporation, and all of the bills currently before the Senate Agriculture Committee contain sugar titles that assume no net cost to the Government over the life of the next farm bill.

Mr. President, the Senate Agriculture Committee is currently marking up legislation that will carry this Nation's agricultural sector and food programs into the 1990's. At this very moment, the people of Hawaii are celebrating the 150th anniversary of our State's sugar industry. As part of this celebration, the First Hawaiian Bank has published an article entitled "150 Years of Sugar in Hawaii." This article points out that while Federal deficits are a critical national problem, they should not be used as an excuse for cutting all agricultural programs—certainly not those such as sugar that have benefited our economy, reduced our trade deficit, and operated at no cost to the American taxpayer. The First Hawaiian Bank suggests that it is crucial for our Nation to retain a domestic sugar industry, and I concur. To this end, I have introduced legislation, S. 884, to increase the sugar loan rate by 2 cents a pound over the next 4 years—a rate that does not even match inflation.

As our colleagues on the Agriculture Committee deliberate over the next farm bill, I would hope that every Senator has the opportunity to read the First Hawaiian Bank's analysis of the sugar program and the need to include an adequate loan rate in the next farm bill. Mr. President, I ask unanimous consent that the full text of the First Hawaiian Bank's Economic Indicators article for March/April 1985, entitled "150 Years of Sugar in Hawaii," be printed in the RECORD.

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

150 YEARS OF SUGAR IN HAWAII

As we recognize the 150th sesquicentennial anniversary of the sugar industry in Hawaii, the industry is facing the greatest threat to its existence in its history. If the proposed modifications to the U.S. Agriculture and Food Act of 1981 (the Farm Act) are enacted by the U.S. Congress, the Hawaiian sugar industry could be devastated.

According to the Department of Planning and Economic Development, total sugar-related employment comes to around 19,200 jobs or 4 percent of all jobs in the state. However, on the Neighbor Island, sugar-related employment accounts for 29 percent of jobs on Kauai, 17 percent on Hawaii, and 13 percent on Maui, compared to 1 percent on Oahu. Likewise, income from sugar in 1982 came to 21 percent of total income on Kauai, 13 percent on Hawaii, 12 percent on Maui, compared to 1 percent on Oahu. Sugar occupies 188,395 acres or 71 percent of all the agricultural land in Hawaii, accounting for 97 percent of all cultivated lands on Kauai, 75 percent on Hawaii, 65 percent on Oahu, and 57 percent on Maui. Sugar also contributes around 10 percent of total state tax revenues. Loss of the industry to Hawaii would be an economic disaster of unprecedented magnitude.

The Hawaii sugar industry is not protected by Title IX of the Farm Act. The provisions include a sugar loan fund where a producer unable to sell his crop is eligible for a loan using his crop as collateral. The loan rate is based on an estimated average cost of production, and was set at 17.75 cents per pound in 1984. Congress also specified that the government should avoid accumulating stocks of sugar by establishing a Market Stabilization Price (MSP). The MSP estimates the actual price that producers must receive to sell their crop, and is composed of the loan rate plus transportation costs, interest, and a producers incentive margin. The MSP is currently at 21.57 cents a pound, 3.82 cents a pound over the loan rate of 17.75 cents a pound. To assure that the actual market price of sugar reflects the MSP, and producers sell their crops, a system of country-by-country import quotas controls the supply and, ultimately, the price of sugar in the U.S. That is possible because about a third of the sugar consumed in the United States is imported.

The need for such a system reflects the realities of the world sugar market. At present, over 40 countries around the world produce around 100 million tons of sugar. Surplus sugar not domestically consumed or traded, roughly 20 million tons a year, is dumped on the so-called "world market." Prices in this market bear no relation to production costs, and fluctuate according to available supply. In 1980, the price was 40 cents a pound. In 1984 it fell to less than 4 cents a pound. Thus, the current price-support system protects our sugar industry from the volatile world surplus market, while maintaining stable prices to insure a steady supply of domestically produced sugar.

The proposed changes in the Farm Bill would cut the loan rate for sugar to 12 cents a pound. Sugar import quotas would be terminated, thereby allowing the domestic market price to fall to world levels. In expectation of industry losses as a result of falling prices, a contingency program of direct payments would subsidize producers based on the difference between the market price and a predetermined target price set to decline to 12 cents in 1990. The payments, however, would be meaningless to Hawaii's large corporate growers because of a limitation of $10,000 per operator set for 1988.

Proponents of the changes argue that easing import restrictions would reduce the domestic price of sugar, and cut back federal dollars needed to support the industry. However, under the proposed changes neither market prices, target prices, or loan rates will bear any relation to the costs of production. Producers may not be able to either sell or borrow, and will ultimately be forced to accept government payments. Opening the American market, which is roughly 9 million tons annually, to foreign sugar would eliminate any surplus and erase any price advantage the world price seemed to offer. Erratic price fluctuations would eventually drive American producers out of business, creating a total dependency on an unreliable supply of imported foreign sugar. The result would be lost jobs, increasing welfare costs, and an increase in the balance-of-trade deficit by an estimated $2 billion a year.

The Farm Act has cost nothing because whatever support the program extends is in loans. Domestic producers borrowed $650 million on 1,312,500 tons of sugar in the 1983/84 sugar season. But, all loans were repaid at market interest rates, and the government did not accumulate any forfeited sugar.

True, federal deficits demand a serious examination of government expenditures. But, eliminating programs that have been costless for economic benefits which are illusory, while at the same time destroying a major portion of Hawaii's economy, is no solution to the problem.

Our responsibilities as a community are clear in supporting the work of our leadership to defeat the changes to the Farm Bill. Hawaii needs the existing support system. Recent developments in Congress appear encouraging. But, let it not be said in retrospect that 1985, the 150th anniversary of sugar's birth in Hawaii, was the year of sugar's demise as an industry.

A TRIBUTE TO BOB ATWOOD

Mr. MURKOWSKI. Mr. President, a very special individual is being honored in Alaska this week for his invaluable contributions to the great State of Alaska.

For five decades, Robert A. Atwood has served Alaska as its premier journalist, editor and newspaper publisher. Over these 50 years, he and his newspaper, The Anchorage Times, have led the way toward development and maturity in the last frontier.

There are few people who remain dedicated to one profession for such a long time. As a young reporter way back in 1935, Bob Atwood began writing about Alaska and about its untapped potential.

Little by little, he encouraged Alaskans to strive to make themselves and the State the best both could possibly become.

Perhaps his most enduring accomplishment came in 1959 when Alaska became the 49th star added to our flag. Bob Atwood took the lead in rallying Alaskans to statehood, and he was a key fighter in that long uphill struggle, giving national support for the Alaska effort. Hundreds of editorials were written by Bob, outlining the advantage of statehood for territorial residents and for our Nation.

Bob took many long trips back then to Washington, DC, to help the cause of statehood through the administration and Congress, garnering interest and support of newspapers along the way. The paper touted Alaska's cause in its quest for full membership in the Union. Bob finally saw his dream become a reality just 25 years ago last year, when Alaskans filled their streets in celebration of their statehood.

Today, at the age of 78, Bob Atwood continues his work as president and publisher of The Anchorage Times and shows no sign of slowing down. Frankly, those of us who have enjoyed the privilege of his friendship would be surprised indeed if he did.

It is for the quality of his work over the past half century, and not merely his longevity, that the Allied Daily Newspapers are honoring Robert Atwood this week. I, too, would like to take this opportunity to recognize the accomplishments of Robert Atwood—accomplishments of which all Alaskans are the grateful chief beneficiaries.

I'm sure Evangeline Atwood, Bob's lovely wife and Alaskan historian, feels extremely proud of her husband and honored for the recognition that he is receiving this week. I know that Evangeline, along with their daughters Elaine and Marilyn, who are also in the newspaper business, are all the more wiser for their close relationship with Bob Atwood. And I know that many Alaskans across the State feel the same way.

I would like to congratulate Bob Atwood and offer my best wishes for many more years of public service.

Mr. STEVENS. Mr. President, Alaskans and journalists across the Nation this week are honoring Robert B. Atwood, publisher of The Anchorage Times, for 50 continuous years on a major U.S. newspaper.

As a young reporter, a product of the great Midwest, educated in New England, Bob Atwood came to Alaska more than 50 years ago. His bride, Evangeline, was the daughter of Alaska pioneers, so it's possible Bob's first reason to come to the great land was to see for himself the beauty and the vast grandeur of the territory, then only an exotic land to most U.S. residents.

But it didn't take long for the young newspaperman to see that Alaska was on the move, and a newspaper in its largest city could be a significant factor in chronicling history as it was being made.

What he also found out, and what Alaskans have learned, is that a newspaper can also be a significant force in shaping the destiny of a land and its people.

Today there is no question that Bob Atwood, an Alaska pioneer in his own right, has made contributions beyond measure toward the settlement, development, and growth of my home, Alaska.

Without his untiring efforts, Alaska might not have added the 49th star to our flag. He was a leader of the long battle for statehood. In literally hundreds of editorials he outlined the advantages of statehood for territorial residents and for our Nation.

Early on, Bob Atwood saw that development of Alaska's vast natural resources was the key to economic growth and development. With a far-seeing group he was responsible for the exploration for oil on the Kenai Peninsula, not far from Anchorage. That successful effort led to interest from major corporations, and ultimately, to the exploration and discovery of oil at Prudhoe Bay. Today, the Alaska pipeline carries 1.7 million barrels of crude oil daily, providing for almost 20 percent of the Nation's crude oil production.

Bob Atwood has long been a strong supporter of the presence of military forces in Alaska. His understanding of Alaska's strategic military position in the Nation's safety has been one factor in assuring the protection of all our citizens through the placement of Army, Navy, and Air Force installations not far from the shores of the U.S.S.R.

Appreciating Alaska's natural beauty, from its 3 million lakes to the highest mountain in North America, Bob Atwood has been one of those who helped make the State a mecca for travelers, for tourists to see that it indeed could be an air crossroads of the world. Planes from every continent fly Alaska's skies, and carriers from every corner of the Earth stop over in Alaska today. Only a few years ago the brave Alaska bush pilots were the only fast link to Alaska's remote areas, and long steamship voyages were the only link to the world outside the region.

Bob Atwood, in a half-century of 10-hour days, 6 days a week on The Anchorage Times, has never forgotten that he is first and always a newspaperman. Through the Atwood chair he has endowed at the University of Alaska, great journalists have come to the Great Land. They shared their talents and their viewpoints with the citizens of the State as well as the students at the university.

Through 50 years, literally hundreds of young newspapermen and newspaperwomen have received their first professional boost on The Anchorage Times. They have gone on to become fine and respected journalists on newspapers and publications across the Nation.

Bob Atwood's untiring efforts on behalf of Alaska have made a mark that historians will note as long as histories are written. His love and concern for Alaska, my home and his, have taken him into some long battles and some uncharted seas. He has fought for his convictions, mapped his way through often turbulent waters and watched Alaska grow from an almost forgotten stepchild to a State important to the well-being of all our Nation.

Today we salute Bob Atwood for his efforts and his concern through 50 short and productive years behind the publisher's desk at The Anchorage Times. As journalists from across the United States gather in Anchorage to applaud his half-century of reporting and editing the news for Alaskans, we add our thanks for a reporter, a publisher, an editor, and a great Alaskan.

For his wife, Evangeline, a historian and Alaskan of great note, and his daughters Elaine and Marilyn, newspaperwomen like their dad, we send our congratulations for having the good fortune to have worked at the side of Bob Atwood, a consummate journalist and a consummate Alaskan.

ORPHAN DRUG AMENDMENTS OF 1985

Mr. HATCH. Mr. President, I ask for immediate consideration of my bill, S. 1147, the Orphan Drug Amendments of 1985, and urge my colleagues to immediately adopt this legislation. I am delighted that 26 Senators—over one-quarter of the Senate—are now sponsors of this important legislation to amend the Orphan Drug Act. The significance of this bill, and the strong support of the Senate for research in orphan diseases and research and development of orphan drugs, are illustrated well by the fact that 15 members of the Labor and Human Resources Committee are cosponsoring this legislation.

I want to recognize in particular the cosponsorship of Senator KENNEDY, the ranking minority member of the Labor and Resources Committee, and the cosponsorship of Senator KASSEBAUM, a long-time champion of this cause. It was Senator KASSEBAUM who introduced the early orphan drug legislation in the 97th Congress, and I am proud that she has joined me in sponsoring this bill as well.

Mr. President, reauthorization of the program to provide grants and contracts for the development of orphan drugs sends a clear signal that Congress encourages such activity and recognizes a winner.

The Orphan Drug Act provides several incentives for sponsors of orphan drugs. These incentives have worked. The act has worked. Since 1983, 55 drugs have been designated "orphan drugs" by the Food and Drug Administration. This is truly remarkable progress for the many Americans who are affected by any of a large number of rare diseases. Increasingly, pharmaceutical companies are agreeing to sponsor orphan drugs—to do the testing required to get these drugs to market so that they will be available to the patients whose lives will be markedly improved by them.

You may be as surprised as I was to learn that there are several thousand orphan diseases, which together afflict several million Americans. Some of these diseases are familiar to us because we have read about a well-known individual who suffers from a rare disease or we have seen a television show or a play about one of these diseases. This is the case, for example, for Amyotrophic Lateral Sclerosis, Lou Gehrig's Disease, against which our distinguished former colleague, Senator Jacob Javits, continues his valiant struggle; for Tourette Syndrome, which was featured a few years ago on the TV show "Quincy," for neurofibromatosis, the affliction recently discussed on the TV show "St. Elsewhere;" and for Huntington's Disease, which afflicted the folksinger Woody Guthrie. For each of these diseases there are hundreds more that virtually no one has heard of. We cannot imagine what it would be like to have something wrong that no one knows about and, worse yet, that no one seems to care about.

The Orphans Drug Act was an enormous positive signal to victims of orphan diseases and their families. Its enactment was a great victory and the only hopeful event in many of their lives. The fact that the Government would be able to support research and development of orphan drugs, and the fact that the pharmaceutical industry would be willing to participate in developing orphan drugs, seeking FDA approval, and marketing those drugs, even though there was no opportunity for profit, were landmark signs of commitment and caring.

The authority for the grant and contract program established in the Orphan Drug Act expires at the end of fiscal year 1985. This bill reauthorizes that program for 3 more years, at $4 million per year. This is the same as the authority in current law. In addition, the bill extends the grant and contract authority by authorizing the award of funds for both preclinical and human clinical testing of orphan drugs. This provision will mean that some of the very costly drug testing, that must be completed before human tests are begun, could be supported under a grant or contract awarded with this authority. I believe this will serve as an additional incentive and

encouragement for the development of orphan drugs.

Another small change in current law made by this bill is the removal of the stipulation that in order to receive the designation as an orphan drug, a drug must be one for which a Letter of Patent may not be issued. This stipulation has caused some administrative difficulty because it is not clear as to the type of patent referred to.

There has been some discussion over the last 6 months about inclusion of "medical devices" in the Orphan Drug Act. I know I speak for my colleagues when I say that the Senate is receptive to consideration of this issue. However, my discussions with FDA and with the orphan disease groups make clear that the concepts involved are complex and that all involved parties agree that we should not delay this legislation while the issue is discussed further.

This bill establishes a National Commission on Orphan Diseases to assess both Government and private sector activities related to research in rare diseases, including research into the cause and prevention as well as the treatment of those diseases. The Commission is required to submit a report to the Congress in 2 years and will terminate 90 days after the submission of the report. I believe there is a need for the kind of evaluation envisioned by this Commission, and that the results of this evaluation can provide useful guidance in planning future research in this important area.

Finally, the bill contains a provision that will correct a drafting error in the fiscal year 1985 appropriations language for the Department of Education. This provision will require no additional funds. It will simply allow already appropriated funds to be expended on June 1, instead of on July 1, 1985. If this seemingly minor error is not corrected, there will be over 700 training programs for teachers of handicapped children that will be delayed and disrupted.

The House Energy and Commerce Committee has ordered reported a bill almost identical to the one we are considering now. This is due in large measure, as was passage of the act in the 97th Congress, to the dedicated efforts in the House of the distinguished chairman and ranking minority member of the House Subcommittee on Health and the Environment, Representative WAXMAN and Representative MADIGAN. My hat is off to them. I am confident that speedy passage of this bill in the Senate will result in its speedy enactment, as I am sure that our House colleagues will be able to quickly agree with us on the final language. There are no substantive differences in our provisions or in our priorities related to orphan drugs.

In closing, Mr. President, let me again express my appreciation to Senators who joined me in sponsoring this important bill. I look forward to its expeditious passage.

AFGHANISTAN REPORT

Mr. BYRD. Mr. President, the West Virginia Intelligencer of April 24, 1985, includes an editorial entitled "Afghanistan." It comments upon my efforts to keep this issue before the American public, and it reports on the atrocities committed by Soviet troops in that brave, sad country.

I continue to share my concern for the freedom-loving people of Afghanistan with my colleagues in the Senate and with the American people because we have a responsibility to the people of Afghanistan to keep their brave struggle on the stage of world opinion. The Soviet occupation army has done its best to stifle news about its brutality. The Soviets pursue an "out of sight, out of mind" philosophy in Afghanistan. But free people everywhere have a duty to hold the situation in Afghanistan up to the light of world opinion. When we examine events in that country, we are much better equipped to understand the hateful nature of Soviet occupation, and what Soviet subjugation means.

For this reason, I will continue to offer reports and worthwhile articles that describe the struggle of the Afghan people in the face of the cruel repression of their Soviet captors. And I will continue to support appropriate assistance for the Afghan people in their struggle against this lawless occupation.

I ask unanimous consent that the article from the Intelligencer be inserted in the RECORD at the close of my remarks.

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

AFGHANISTAN

Sen. Robert Byrd of West Virginia recently warned his colleagues against letting Afghanistan degenerate into, "just another occassional continuing feature on the evening news." The Democrat leader is doing his best not to let Afghanistan become a victim of world apathy and historical amnesia through attempting to bring to national attention the terrible consequences of Soviet occupation of that land.

One of these, Byrd noted, happened in March of this year when death in a Red Army uniform came to the little village of Chinar in southern Afghanistan. At 8 a.m. on March 17, according to an escaped refugee, Soviet troops attacked the villiage "killing every living thing" unable to escape. Muhammad Gul said that in one incident 52 women and children tried to hide on a rooftop. Soviet troops spotted them and set fire to the building, burning those 52 innocent people to death when the flames reached the roof.

In a recent study prepared for the United Nations Human Rights Commission, Byrd noted, Austrian law professor Felix Ermacora accused the Soviet Union of massacring Afghan civilians, executing guerrilla fighters, and in some instances using poison gas against them. When the Soviets attacked Ermacora's report as a fake, the Austrian professor retorted, "Every word in it is true. And to anyone who says I am falsifying the record, I reply: 'If 4 million people leave their country, Afghanistan, then there must be a good reason.'"

What has been going on in Afghanistan since the brutal invasion of that little country by the Soviet Union doesn't seem to qualify very often as "news" in this country, now that the Soviet occupation has dragged on into its fifth year. As Byrd points out, we live in a century long on inhumanity and short on memory. Many millions of combatants have died in the hideous wars of our time. But even more millions of innocent civilians, men, women and children have been slain in acts of official barbarism.

Far too often the world's reaction to such bloody deeds is a shoulder-shrugging, "So what?" One of the duties of civilized people is to keep alive the memory of such atrocities as Buchenwald, Dachau, Auschwitz—not from notice of hatred or vengeance, but that democracy's creed may reverberate: "Never again."

In the same vein, Americans must remember today that real men and women are suffering and dying in the rugged mountains of Central Asia. Soviet bombs and bullets are mutilating Afghan children. Flesh and blood human beings are struggling there to save their country, their culture, their way of life, their freedom.

Byrd is performing a valuable service in the defense of suffering humanity by keeping the agony of Afghanistan before the American people. Our attention span is short. But we never should become so blase as to relegate the strangling of a nation's freedom to the status of a filler on the 6 o'clock news.

One reason why there is legitimate concern that this may occur in this situation is the secrecy which veils Afghanistan. A French doctor who directs Medecins sans Frontieres, Dr. Claude Malheuret, writes as one who has first-hand knowledge of the tragedy-knowledge which is extremely hard to come by.

The organization which Malheuret directs is apolitical, hence its reports possess a special quality of reliability and authenticity. When M.S.F. speaks of a Soviet war against Afghan children, it is because the physicians have had to treat ghastly wounds inflicted by booby-trapped toys.

"International public opinion would never accept such enormities if it were informed daily on the developments in Afghanistan. The need for secrecy explains why borders are systematically closed and why journalists are not allowed to enter the country," declares Malheuret.

The French physician believes that the Afghans can't be defeated in the short or medium term, but Soviet strategy involves two aspects that may make the outcome in Afghanistan differ from Western experience. One is the use of mass terror. The second is that the Soviets can afford a protracted war in the short term for the sake of a long-term victory.

"The Russians do not need smashing victories to announce to their citizenry, as Soviet public influence does not influence Soviet policy. Catastrophies such as that in the Salang tunnel where several hundred Soviet and communist-regime troops (and civilians) were killed do not incite an outcry in Moscow for Soviet 'boys' to come home. The Soviet army can wait it out . . .

"The Afghan resistance will hold out for a long time, but in the end, it probably will be beaten," is the gloomy first-hand assessment given by Malheuret.

This need not occur, should in coming years a profound change in the reactions of Westerners to Soviet totalitarianism occur. However, concludes the M.S.F. director, in a statement with which no one can argue:

"Only a very wise person would dare predict the future of Afghanistan.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

BUDGET RESCISSIONS AND DEFERRALS—MESSAGE FROM THE PRESIDENT—PM 46

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Environment and Public Works:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report two new rescission proposals totaling $37,401,818, two new deferrals totaling $24,000,000, and a revised deferral now totaling $32,300,000. The rescissions affect programs in the Department of Energy and the Corporation for Public Broadcasting. The deferrals affect programs in the Department of Energy and the Tennessee Valley Authority.

The details of these rescissions and deferrals are contained in the attached report.

RONALD REAGAN.

THE WHITE HOUSE, *May 16, 1985.*

CONSERVATION OF PETROLEUM AND NATURAL GAS AT FEDERAL FACILITIES—MESSAGE FROM THE PRESIDENT—PM 47

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

As required by Section 403(c) of the Powerplant and Industrial Fuel Use Act of 1978, I hereby transmit the sixth annual report describing Federal actions with respect to the conservation and use of petroleum and natural gas in Federal facilities.

RONALD REAGAN.

THE WHITE HOUSE, *May 16, 1985.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:05 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 484. An act to amend the Saccharin Study and Labeling Act;

S. 661. An act entitled the "George Milligan Control Tower; and

S.J. Res. 61. Joint resolution to designate the week of May 20, 1985, through May 26, 1985, as "National Osteoporosis Awareness Week".

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. THURMOND).

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, May 16, 1985, she had presented to the President of the United States the following enrolled bills and joint resolution:

S. 484. An Act to amend the Saccharin Study and Labeling Act:

S. 661. An Act entitled the "George Milligan Control Tower"; and

S.J. Res. 61. Joint resolution to designate the week of May 20, 1985, through May 26, 1985, as "National Osteoporosis Awareness Week".

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-212. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources.

"ASSEMBLY JOINT RESOLUTION NO. 42

"Whereas, The United States Department of the Interior has announced a five-year program to open all California's offshore waters for oil and gas leasing; and

"Whereas, Under this program, lease sales for areas previously closed to oil and gas development would occur for southern California in April 1987 and 1990, for central California in May 1989, and for northern California in December 1987 and 1990; and

"Whereas, No national energy development plan exists to provide for the orderly development of energy resources to match national needs; and

"Whereas, No national need has been demonstrated for additional offshore oil and gas leasing in California; and

"Whereas, The abundant sea life and beauty of California's coast and ocean waters provide unique recreational and fishing opportunities for the citizens of the state and nation; and

"Whereas, In 1983 tourism contributed approximately 28.5 billion dollars to the economy of the state while the value of oil and gas extracted from California and areas offshore totaled only approximately 10.5 billion dollars; and

"Whereas, Oil platforms, oil spills, interference with fishing activities, and other actual and potential adverse effects from oil development are likely to cause irreparable harm to the resources of the coast; and

"Whereas, The federal government has not yet satisfactorily addressed impacts to California from present offshore oil and gas production through revenue sharing as required by Section 8(g) of the federal Outer Continental Shelf Lands Act, as amended by Section 205 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. Sec. 133(g)); and

"Whereas, The United States Congress, in adopting the federal Outer Continental Shelf Lands Act Amendments of 1978, directed the Department of the Interior to prepare and maintain the leasing program in a manner consistent with the principle that "(m)anagement of the Outer Continental Shelf shall be conducted in a manner which considers economic, social, and environmental values of the renewable and nonrenewable resources contained in the Outer Continental Shelf, and the potential impact of oil and gas exploration on other resource values of the Outer Continental Shelf and the marine, coastal, and human environments" (43 U.S.C. Sec. 1344(a)(1)); and

"Whereas, For the past four years the United States Congress has expressed its concern over oil and gas development off California by adopting lease moratoria for the areas now included in the proposed lease program of the Department of the Interior; and

"Whereas, California's citizens and local government have repeatedly stated that leasing of many of the areas proposed by the Department of the Interior presents unacceptable risks to economic, social, human, and natural environments far in excess of the value of projected oil resources; and

"Whereas, The Legislature of the State of California has consistently expressed its opposition to leasing of the areas proposed in the Department of the Interior's program through passage of resolutions such as Assembly Joint Resolution 19 in 1981 and Assembly Joint Resolutions 86 and 95 in 1984; and

"Whereas, The Federal Outer Continental Shelf Lands Act permits the Governor to respond within 60 days with comments and suggestions on proposed lease programs; and

"Whereas, California has prohibited offshore oil leases in most state waters adjacent to the areas proposed for leasing by the Secretary of the Interior; and

"Whereas, California is likely to lose potential revenues from state-owned oil through drainage to federal leasees under the Secretary of the Interior's proposal; now, therefore, be it

"Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California memorializes the President of the United States and the Secretary of the Interior to delete from the proposed oil and gas leasing program all offshore areas adjacent to state-owned tide and submerged lands where oil leases are currently prohibited and all areas offshore California north of the seaward extension of the Mendocino-Sonoma County line; and be it further

"Resolved, That the Legislature of the State of California hereby respectfully re-

quests that the Governor recommend to the Secretary of the Interior that the federal offshore areas adjacent to state-owned tide and submerged lands where oil leases are currently prohibited and all areas offshore California north of the seaward extension of the Mendocino-Sonoma County line be deleted from the proposed oil and gas leasing program; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to each Senator and Representative from California in the Congress of the United States, and to the Governor."

POM-213. A resolution adopted by the House of Representatives of the State of Indiana; to the Committee on Energy and Natural Resources.

"HOUSE RESOLUTION No. 23

"Whereas, There never has been an energy crisis except as it has been perpetrated by the Federal Government for the purpose of controlling the American people; and

"Whereas, A large pool of crude oil and natural gas was discovered on Gull Island, located approximately 5 miles north of the Alaska shoreline in the Arctic Ocean, which is as large as the Prudhoe Bay pool of crude oil and gas, and also, large pools of crude oil and gas at the Duck Island and Kuparuk locations; and

"Whereas, The Gull Island crude oil find was ordered to be kept secret and closed down by the United States Government in order to force high oil prices on United States citizens; and

"Whereas, Seismographic testing has indicated that there is as much crude oil on the north slope of Alaska as in Saudi Arabia; and

"Whereas, Government ecologists forced the oil companies to spend $2,000,000 to bypass a falcon's nest, $375 for the replacement of a toilet paper holder and $10,000 for each toilet; small examples of waste, which resulted in approximately $10,000,000,000 in cost overruns, and in turn caused higher gas prices for United States citizens; and

"Whereas, The Alaskan Pipeline Corridor was originally built to accommodate two crude oil pipelines and one natural gas line; and

"Whereas, As seventy-four percent (74%) of the cost of a barrel of Alaska crude oil is federal and state taxes; and

"Whereas, There is enough natural gas in Alaska to last the United States citizens for 200 years: Therefore,

"Be it resolved by the House of Representatives of the General Assembly of the State of Indiana:

"SECTION 1. That the United States government allow the oil companies to build an additional crude oil pipeline and a natural gas line so as to allow the United States citizens an abundance of fuel at a reasonable cost.

"SEC. 2. That the Clerk of the House of Representatives is hereby directed to deliver copies of this Resolution to each member of the United States Congress, The President of the United States and the Vice President of the United States."

POM-214. A resolution adopted by the Legislature of the Territory of Guam; to the Committee on Finance.

"RESOLUTION No. 57 (LS)

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, Sections 301 and 303 of U.S. Public Law 92-603 amended Title XIV of the Social Security Act in its entirety under the Title "Supplemental Security Income (SSI) Program for the Aged, Blind, and Disabled", and repealed Title XIV of the Social Security Act, effective January 1, 1974; and

"Whereas, Section 303(b) of U.S. Public Law 92-603 did not repeal Title XIV of the Social Security Act, and therefore, did not extend the benefits to the territories of Guam, Puerto Rico, and the Virgin Islands; and

"Whereas, all the eligible residents of the fifty states of the United States who have applied successfully for this assistance under the Supplemental Security Income Program for the Aged, Blind, and Disabled are now enjoying its full benefits; and

"Whereas, the residents of Guam's neighboring islands of the Commonwealth of the Northern Marianas are now enjoying the full benefits of the Supplemental Security Income (SSI) Program as a result of their present political status; and

"Whereas, the people of Guam firmly believe in the right to equal treatment of any resident or citizen of the United States to the benefits available to them from the United States Federal Government without regard to race, color, creed, or geographical remoteness or boundaries; and

"Whereas, there are presently 930 residents of Guam receiving public assistance under the Aged, Blind and Disabled Programs, and there are other potentially eligible residents of this territory who would definitely prefer to receive the more expanded benefits of the Supplemental Security Income Program; now, therefore, be it

"Resolved, That the Eighteenth Guam Legislature respectfully request the Honorable Ben Blaz to introduce legislation to amend the appropriate sections of the Social Security Act to extend the benefits of the Supplemental Security Income Program to the Territory of Guam; and be it further

"Resolved, That the Eighteenth Guam Legislature request the Governor and Lieutenant Governor of Guam, through their Washington, D.C. Office, and the Director of Public Health and Social Services, to seek the support of the Federal Government, specifically the Department of Health and Human Services, to aid in the passage of this legislation; and be it further

"Resolved, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Speaker of the U.S. House of Representatives; to the President of the U.S. Senate; to the Secretary of Health and Human Services, to Guam's Delegate to Congress; to the Director of Public Health and Social Services; to the Governor's Special Assistant in Washington, D.C.; to the Lieutenant Governor of Guam, and to the Governor of Guam."

POM-215. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Foreign Relations.

"HOUSE RESOLUTION No. 236

"Whereas, in August 1984, South Africa instituted constitutional "reforms", extending minority representation to the so-called "Colored" people (i.e., of mixed racial origins) and the Indian peoples in the segregated South African parliament, but omitting any representation for the Black majority of South Africa; and

"Whereas, these so-called "reforms" have, in fact, retained the traditional White domination in the South African parliament, leading the Black opposition to organize a boycott of the Colored and Indian elections; and

"Whereas, resulting uprisings have occurred in which at least 160 people have been killed and more than 4,000 arrested since August 1984; and

"Whereas, although 17 of South Africa's political prisoners were released, as of December 12, 1984, still, in that same week, 22 more people were charged with "high treason" and face death; another 5 face long prison terms for "subversion"; and well over 200 remain in detention, without charge, as a result of the recent uprisings; and

"Whereas, in addition, Black students, protesting the segregated, inequitable education system, have refused to take high-school matriculation examinations; and

"Whereas, in South Africa's "Black only" townships, rents have been increased and new taxation measures have brought more millions of protestors into the streets; and

"Whereas, Bishop Desmond Tutu, 1984 Nobel Peace Laureate, has said "It is up to the international community to exert pressure on the South African government . . . If that does not happen . . . the bloodbath will be inevitable; now, therefore,

"Be it resolved by the House of Representatives of the Thirteenth Legislature of the State of Hawaii, Regular Session of 1985, That the South African government is respectfully urged to put an end to apartheid, as well as the current wave of repression, and the detention, without charge, of its Black citizens; and

"Be it further resolved, That certified copies of this Resolution be transmitted to the South African government, through its Embassy in Washington, D.C.; as well as to the President of the United States, the U.S. Secretary of State, the President of the United States Senate, the Speaker of the United States House of Representatives, and members of Hawaii's congressional delegation."

POM-216. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Foreign Relations.

"HOUSE RESOLUTION No. 109

"Whereas, the United States government, in October 1984, adopted a Congressional Resolution to support peaceful uses of space, and

"Whereas, there are many current and potential uses of space, including planetary exploration, as well as Earth resources surveys, search and rescue surveillance, weather surveillance, military surveillance, communications, energy production for use on Earth and other types of systems that would be endangered by the development and operation of systems for space warfare, and

"Whereas, space defense systems that would use laser beams, nuclear explosions, or other means, could also be used for offensive warfare purposes that might also endanger the civilian population on Earth, and would violate the 1972 Antiballistic Missile (ABM) Treaty, and

"Whereas, many military experts are of the opinion that complex space defense systems, designed to be used against enemy ballistic missile attacks, would be extremely

costly, could never be tested under realistic conditions, and would be unlikely to ever lead to reductions in offensive nuclear weapon arsenals, and

"Whereas, in addition, space defense systems would not be effective against cruise missiles and other low-trajectory missiles nor against manned-bombers or most tactical nuclear weapons that might be used in conventional warfare, and

"Whereas, in 1981 and 1983, the Soviet Union submitted to the United Nations a draft treaty that would 'prohibit the stationing of weapons of any kind in outer space'; however, the Reagan Administration has not responded to this initiative but, instead, has proceeded with research and development on space defense systems, as well as the development and testing of a U.S. anti-satellite weapon system which is clearly a first step in the development of a space-based, ballistic-missile-boost phase defense system.

"Whereas, in July 1983, the U.S. Senate Foreign Relations Committee approved a bipartisan resolution calling for negotiations on anti-satellite systems and adoption of an anti-satellite test moratorium, now, therefore,

"Be it resolved, That this body urges the United States and the Soviet Union to reaffirm their commitments to the 1972 ABM Treaty and to undertake serious negotiations to immediately ban the further development of anti-satellite systems, restrict research and development on space defense and space offense systems, and, instead, promote cooperative ventures in peaceful uses of space.

"Be it further resolved, That certified copies of this Resolution be transmitted to the President of the United States, the President of the Soviet Union, the U.S. Secretary of State, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and members of Hawaii's congressional delegation."

POM-217. A resolution adopted by the House of Representatives of the State of Hawaii; to the Committee on Foreign Relations.

HOUSE RESOLUTION NO. 135

"Whereas, media polls continue to indicate that over 80 per cent of the American public favors a mutual and verifiable nuclear freeze; and

"Whereas, in June 1983, the Soviet Union proposed to accept such a freeze on nuclear weapons, if the United States did likewise; and

"Whereas, the Reagan administration refuses to accept such a freeze on the basis that it would prevent the development and testing of new nuclear weapon systems and, therefor, undermine U.S. security; and

"Whereas, our two countries already possess a combined nuclear firepower of about 6000 times all of the firepower of World War II, in which 50 million people were killed; and

"Whereas, even the use of a small amount of this firepower could not only kill hundreds of millions of people by direct effects, but could also create disastrous side effects, such as a "nuclear winter", ozone depletion, radioactive poisoning of our food chain, and epidemics of fatal diseases; and

"Whereas, the present arms race is increasing the numbers of multi-warhead, vulnerable land-based weapons, such as the U.S. MX missiles and the USSR SS-series of missiles, which are highly subject to preemptive enemy attacks, as well as forward land-based, vulnerable Pershing 3, SS-20, and cruise missiles that would leave very little time for warning of an attack, and therefore force the adoption of dangerous launch-on-warning techniques that depend on unreliable Soviet and American computers; and

"Whereas, the Reagan administration is planning, under Presidential Directive 59, to provide forces for fighting and winning a "limited nuclear war"; and

"Whereas, it appears to be impossible to fight any type of "limited nuclear war" since any use of tactical or other types of nuclear weapons would be expected to create a situation that would escalate rapidly into an all-out nuclear holocaust; and

"Whereas, there is, therefore, an urgent need to immediately suspend the production, testing, and deployment of all tactical nuclear weapons, as well as all medium- and long-range missiles, bombers, and submarines; and

"Whereas, there is also an immediate need to pull-back all battlefield, tactical nuclear weapons in Europe, to create a nuclear-free buffer-zone between NATO and Warsaw Pact forces; and

"Whereas, to make such actions viable, there is an urgent need to complete, sign, and ratify a Comprehensive Test-Ban Treaty, and to develop a schedule for rapid, mutual, and verifiable reductions in both U.S. and USSR stockpiles of nuclear warheads and delivery systems; now, therefore,

"Be it resolved by the House of Representatives of the Thirteenth Legislature of the State of Hawaii, Regular Session of 1985, That the House of Representatives urges the United States and the Soviet Union to establish an immediate, mutual, and verifiable moratorium on the production, testing, and deployment of nuclear weapons, complete a Comprehensive Test-Ban Treaty, and agree on a schedule for rapid, mutual, and verifiable reductions in nuclear warheads and delivery systems; and

"Be it further resolved, That certified copies of this Resolution be transmitted to the President of the United States, the Chairman of the Presidium of the U.S.S.R. Supreme Soviet, the U.S. Secretary of State, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and members of the Hawaii congressional delegation."

POM-218. A resolution adopted by House of Representatives of the State of Arizona; to the Committee on Governmental Affairs.

"HOUSE MEMORIAL 2001

"Whereas, federally funded programs that may be eliminated under the federal deficit reduction plan include various subsidies for United States postal service; and

"Whereas, organizations for the blind and other handicapped persons are currently granted free mailing privileges for braille books, cassette recordings, talking books and similar materials; and

"Whereas, in the system of compromise over the federal budget, postal subsidies may be reduced even further; and

"Whereas, without postal subsidies, organizations for the blind and handicapped will have to pay for costly mailings and thereby reduce their services to those in need; and

"Whereas, it is estimated that eliminating the subsidies would cost the Arizona Library for the Blind and the Foundation for Blind Children over seven hundred thousand dollars.

Wherefore your memorialist, the House of Representatives of the State of

"Arizona, prays:

"1. That the President and the Congress give their most earnest consideration to retaining all existing postal service subsidies for the blind and handicapped.

"2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States and to each Member of the Arizona Congressional Delegation."

POM-219. A resolution adopted by the Senate of the Commonwealth of Pennsylvania; to the Committee on Governmental Affairs.

RESOLUTION—IN THE SENATE, APRIL 24, 1985

"Whereas, The Polish Falcons of America will be celebrating its 100th Anniversary in the United States in 1987; and

"Whereas, This organization has contributed immensely to American life since its founding in Chicago in 1887 through the promotion of gymnastic training, Polish culture, and fraternal life; and

"Whereas, The United States Postal Service has honored numerous Americans for their contribution to our country; therefore be it

"Resolved, That the Senate of Pennsylvania urge the Citizen Stamp Advisory Committee of the United States Postal Service to issue a stamp commemorating the centennial of the Polish Falcons of America; and be if further

"Resolved, That copies of this resolution be transmitted to Mr. Belmont Faries, Chairman, Citizen Stamp Advisory Committee of the United States Postal Service, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania."

POM-220. A concurrent resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Labor, and Human Resources.

"RESOLUTION SUPPORTING LIMITED HEROIN PRESCRIPTIONS FOR TERMINAL CANCER PATIENTS

"Whereas, scientific and medical studies show parenteral diacetylmorphine, named heroin, to be of medical value because of its analgesic qualities for relieving the general pain suffered by terminal cancer patients; and

"Whereas, heroin acts more quickly than morphine and gives relief of pain and a sense of well-being sooner; and

"Whereas, it is particularly effective in the terminal phase of cancer, when patients frequently cannot take medication by mouth and have little body tissue into which to give large injections; and

"Whereas, patients who are given limited heroin prescriptions are able to remain alert and are able to communicate with their families; and

"Whereas, without this highly effective pain killer, as many as 8,000 Americans may die in unnecessary agony this year; and

"Whereas, S. 70, introduced in the United States Congress by Senator Daniel K. Inouye of Hawaii, provides for limited prescriptions of heroin by physicians for terminal cancer patients in hospitals for a 5 year trial period; now, therefore, be it

Resolved by the Senate, the House of Representatives concurring: That the general court of New Hampshire supports S. 70 and

urges the members of the New Hampshire congressional delegation to do so also; and

"That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, and Speaker of the United States House of Representatives and the members of the New Hampshire congressional delegation."

POM-221. A petition from a citizen of El Cajon, CA, supporting the President's appeal to the American people for taxpayer's protection plan and his efforts to reduce the deficit spending and to balance the budget; ordered to lie on the table.

POM-222. A petition from the Vietnamese Association of Central Florida regarding Communist regime take over of the Republic of Vietnam; to the Committee on Foreign Relations.

POM-223. A concurrent resolution adopted by the Legislature of the State of New Hampshire; to the Committee on Governmental Affairs.

"RESOLUTION REQUESTING THE UNITED STATES POSTAL SERVICE TO ISSUE A COMMEMORATIVE BICENTENNIAL STAMP

"Whereas, the United States will celebrate the bicentennial of the preparations and adoption of its Constitution in 1987 and 1988; and

"Whereas, New Hampshire endorsed the Constitution on June 21, 1788, thus becoming the ninth and key state to approve it, and by this action the Constitution became the basic law of these United States; and

"Whereas, a suitable memorial to the success of the Constitution and New Hampshire's involvement in its adoption would be a commemorative stamp issued by the United States; now, therefore, be it

"Resolved by the House of Representatives, the Senate concurring: That the United States Postal Service be petitioned to issue a commemorative stamp, using the logo of the New Hampshire Commission on the Bicentennial of the United States Constitution, to be issued in the spring of 1988; and

"That a copy of this resolution be transmitted to the United States Postal Service, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the New Hampshire congressional delegation."

POM-224. A concurrent resolution adopted by the Legislature of the State of Arizona; to the Committee on Labor and Human Resources.

"HOUSE CONCURRENT MEMORIAL 2001

"Whereas, section 11(d) of the fair labor standards act, 29 United States Code section 211(d), empowers the Secretary of Labor or the administrator of the wage and hour division of the department of labor to issue orders for the regulation of commercial homework; and

"Whereas, these officials, acting pursuant to this authority, have issued orders categorically prohibiting homeworkers from engaging in broad categories of commercial activity; and

"Whereas, the effect of this prohibition has been to deprive untold numbers of individuals who prefer to work at home, such as mothers with young children, of the opportunity to be gainfully employed; and

"Whereas, those who support the prohibition of homework seek to justify that infringement of the individual's right to work by arguing that homework presents the opportunity for abuse; and

"Whereas, that argument is without merit since there is no instrumentality known to man that cannot be misused, a fact that does not warrant the indiscriminate circumscribing of individual liberty; and

"Whereas, no rational legislative objective is served by, in effect, forcing employees out of the home and into the factory or office; and

"Whereas, the American economy has entered a new phase characterized by the widespread use of computers and the electronic processing of information; and

"Whereas, this burgeoning electronic age promises to dramatically alter the traditional workplace by enabling many to earn a livelihood in the home through the use of computer terminals; and

"Whereas, this change in the commerical landscape has introduced a new category of employee, the telecommuter, who, armed with a personal computer terminal, is gainfully employed in the comfort and convenience of the home; and

"Whereas, those who seek to prohibit homework are already endeavoring, through federal regulation, to stifle this new field of opportunity.

"Wherefore, your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

"1. That the President, the Congress and the Secretary of Labor of the United States take any action necessary to rescind existing orders and regulations prohibiting commercial homework and refrain from extending these prohibitions to additional categories of activities to guarantee to those individuals who choose to pursue gainful employment in the home the freedom to do so.

"2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives of the United States, the Secretary of Labor of the United States and to each Member of the Arizona Congressional Delegation."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DANFORTH, from the Committee on Commerce, Science and Transportation, with an amendment:

S. 1077: A bill to amend the Consumer Product Safety Act (15 U.S.C. 2051 et seq.) to provide authorization of appropriations, and for other purposes (Rept. No. 99-60).

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1084: A bill to authorize appropriations of funds for activities of the Corporation for Public Broadcasting, and for other purposes (Rept. No. 99-61).

By Mr. ANDREWS, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 277: A bill to reauthorize the Indian Health Care Improvement Act, and for other purposes (Rept. No. 99-62).

By Mr. DANFORTH, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 999: A bill to amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes (Rept. No. 99-63).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 144: A resolution to give special recognition to the achievements of John James Audubon.

By Mr. GOLDWATER, from the Committee on Armed Services, without amendment:

S. Res. 168: An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to consideration of S. 1160. Referred to the Committee on the budget.

S. 1160: An original bill to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1986, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 131: A joint resolution to designate the week of June 2, 1985, through June 8, 1985, as "Future Problem Solving Program Week."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary: D. Lowell Jensen, of Virginia, to be Deputy Attorney General.

(The above nomination was reported from the Committee on the Judiciary 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. PROXMIRE:

S. 1148. A bill to amend section 5155 of the Revised Statutes with respect to shared electronic banking equipment; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BUMPERS (for himself and Mr. PRYOR):

S. 1149. A bill to amend the Federal Power Act to allow State commissions to determine whether to exclude all or part of a rate set by the Federal Energy Regulatory Commission based on construction cost; to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself and Mr. EAGLETON):

S. 1150. A bill to revise the minimum service requirements for retired and retainer pay under titles 10 and 14 for members of the uniformed services who first become members of the uniformed services on or after the date of the enactment of this Act, to revise the manner for computing retired and retainer pay under such titles for such members, and for other purposes; to the Committee on Armed Services.

By Mr. DIXON (for himself, Mr. JOHNSTON, Mr. PRYOR, Mr. RIEGLE, and Mr. SASSER):

S. 1151. A bill to amend the Federal Deposit Insurance Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KERRY:

S. 1152. A bill to amend the Internal Revenue Code of 1954 to increase all civil and criminal tax penalties for taxpayers who avoid their fair share of Federal taxes, to increase voluntary compliance of the Federal tax laws, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO:

S. 1153. A bill to provide for the distribution within the United States of the United States Information Agency film entitled "Hal David: Expressing a Feeling"; to the Committee on Foreign Relations.

By Mr. MATSUNAGA (for himself, Mr. PRESSLER, Mr. INOUYE, Mr. SARBANES, Mr. MELCHER, Mr. BURDICK, Mr. PELL, Mr. LEAHY, and Mr. HUMPHREY):

S. 1154. A bill to amend title XVIII of the Social Security Act to provide direct Medicare reimbursement for services performed by registered nurse anesthetists; to the Committee on Finance.

By Mr. CHAFEE:

S. 1155. A bill to authorize the disposal of silver from the national stockpile; to the Committee on Armed Services.

By Mr. DENTON:

S. 1156. A bill to amend chapter XIV of the Comprehensive Crime Control Act of 1984, relating to victims of crime, to provide funds to encourage States to implement protective reforms regarding the investigation and adjudication of child abuse cases which minimize the additional trauma to the child victim and improve the chances of successful criminal prosecution or legal action; to the Committee on the Judiciary.

By Mr. McCLURE (by request):

S. 1157. A bill to authorize the Secretary of the Interior to perform studies relating to disposal of drain water and to construct interim corrective measures deemed necessary for the San Luis intercepter drain; to the Committee on Energy and Natural Resources.

By Mr. DOLE (for himself, Mr. DURENBERGER, and Mr. BENTSEN):

S. 1158. A bill to amend title XVIII of the Social Security Act with respect to Medicare payments for direct costs of approved educational activities; to the Committee on Finance.

By Mr. ANDREWS (for himself, Mr. GOLDWATER, Mr. MELCHER, Mr. BURDICK, Mr. ABDNOR, Mr. DECONCINI, Mr. BINGAMAN, Mr. BAUCUS, Mr. STEVENS, Mr. HATFIELD, Mr. WEICKER, Mr. NICKLES, Mr. BOREN, and Mr. COCHRAN):

S. 1159. A bill to amend section 8(a) of the Small Business Act to clarify the eligibility of small business concerns owned by Indian tribes; to the Committee on Small Business.

By Mr. GOLDWATER, from the Committee on Armed Services:

S. 1160. An original bill to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1986, to authorize certain construction at military installations for such fiscal year, to authorize appropriations for the Department of Energy for national security programs for such fiscal year, and for other purposes; placed on the calendar.

By Mr. DODD:

S. 1161. A bill to provide for the protection of United States security interests in the Central American region; to the Committee on Foreign Relations.

By Mr. HART:

S. 1162. A bill to amend the Nuclear Waste Policy Act of 1982 to require the Secretary of Energy to incorporate transportation impacts into the selection process for repositories of high-level radioactive wastes; to the Committee on Environment and Public Works.

By Mr. KENNEDY:

S. 1163. A bill entitled "The Military Family Act of 1985"; to the Committee on Armed Services.

By Mr. HUMPHREY (for himself, Mr. THURMOND, Mr. LAXALT, Mr. SARBANES, Mr. GORTON, Mr. BURDICK, Mr. DECONCINI, Mr. COHEN, Mr. DOMENICI, Mr. MATTINGLY, Mrs. HAWKINS, Mr. ANDREWS, Mr. HATCH, Mr. RUDMAN, Mr. CHAFEE, Mr. DOLE, Mr. PELL, Mr. PROXMIRE, Mr. EXON, Mr. EAST, Mr. MATSUNAGA, Mr. HOLLINGS, Mr. LUGAR, Mr. METZENBAUM, Mr. NUNN, Mr. QUAYLE, Mr. GARN, Mr. BRADLEY, Mr. DENTON, Mr. NICKLES, Mr. HATFIELD, Mr. BOSCHWITZ, Mr. MATHIAS, and Mr. PRESSLER):

S.J. Res. 137. Joint resolution to designate the week of December 15, 1985, through December 21, 1985, as "National Drunk and Drugged Driving 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. SPECTER:

S. Res. 166. Resolution regarding a superpower summit; to the Committee on Foreign Relations.

By Mr. DOLE:

S. Res. 167. Resolution electing Ernest E. Garcia as the Sergeant at Arms and Doorkeeper of the Senate; considered and agreed to.

By Mr. GOLDWATER, from the Committee on Armed Services:

S. Res. 168. Original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to consideration of S. 1160; to the Committee on the Budget.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE:

S. 1148. A bill to amend section 5155 of the Revised Statutes with respect to shared electronic banking equipment; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. PROXMIRE and the text of the legislation appear earlier in today's RECORD.)

By Mr. BUMPERS (for himself and Mr. PRYOR):

S. 1149. A bill to amend the Federal Power Act to allow State commissions to determine whether to exclude all or part of a rate set by the Federal Energy Regulatory Commission based on construction costs; to the Committee on Energy and Natural Resources.

(The remarks of Mr. BUMPERS and Mr. PRYOR, and the text of the legislation appear earlier in today's RECORD.)

By Mr. SIMON (for himself and Mr. EAGLETON):

S. 1150. A bill to revise the minimum service requirements for retired and retainer pay under titles 10 and 14 for members of the uniformed services who first become members of the uniformed services on or after the date of enactment of this act, to revise the manner for computing retired and retainer pay under such titles for such members, and for other purposes; to the Committee on Armed Services.

UNIFORMED SERVICES RETIREMENT ACT

Mr. SIMON. Mr. President, I am today introducing legislation to amend the nondisability military retirement system. We have been talking for some days now in this body about how we are going to save money. I have a proposal in—and Senator EAGLETON of Missouri is a cosponsor, and I assume we will have other cosponsors as it moves ahead—to change the military retirement system. What I propose is to change the military retirement system so that no one who is presently in the military retirement system is disadvantaged, but to say starting on January 1, 1986, anyone who goes into the service at that point would have to serve 25 years rather than 20 years. That is the first point of my proposal. We now have a situation where you can go in for 20 years, serve, and then retire, and average retirement is around 41—about 39 for people who are not officers, about 45 for those who are officers—and then you have this very, very lengthy period of retirement pay. It is the second costliest entitlement program of the Federal Government that we have coming out of general revenue funds, second only to the Medicaid Program.

I am also suggesting at that point that the amount of retirement pay be reduced from 75 to 50 percent for those serving 25 years and to 60 percent for those serving 30 years.

The second point that we make—and I think it is extremely important—and that deals with this indexation matter; that is, that those who retire would receive their full cost of living but that it not be compounded. The compounding of the cost-of-living increase is frankly an inflationary thing no matter what the retirement system is. It is particularly devastating on the military side of it because retirees on the average are retirees for more than 30 years. So that there is no misunderstanding on this, what I am talking about is that if someone retires, let us say gets $10,000 a year in retirement, there is a 4-percent cost-of-living increase, then you get that next year, $10,400. If the following year there is another 4-percent cost-of-living in-

crease, you would get the full 4 percent but it would be calculated on the base rather than $10,400. So you would grant the full cost-of-living increase, as 95 percent of the private retirement systems do not. You would continue to provide that benefit, but you would not compound it. Compounding that in the case of military retirement results ultimately in some extremely high costs.

Now, you are not going to save any money tomorrow, you are not going to save any money next year; but the Congressional Budget Office estimates that come 30 years from now, we will be saving approximately $10.7 billion a year doing this. And I suggest if we can do that, we ought to be doing it.

I ask unanimous consent, Mr. President, to insert in the RECORD some details of this.

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

Estimated outlays under current law for retired pay: 1985 to 2020

[In millions of 1985 dollars] [1]

1985	17,515
1986	17,922
1987	18,125
1988	18,327
1989	18,531
1990	18,720
1995	19,575
2000	20,373
2010	21,170
2020	21,510

[1] Numbers from CBO.

THE SIMON AMENDMENT

What will it do?

A. LENGTH OF ACTIVE DUTY

Current system	Simon proposal
Minimum:	
20 years	25 years.
50 percent of last 3 years' average salary.	50 percent of last 3 years' average salary.
Retirement pay equal 2½ percent per year of active duty.	Retirement pay equal 2 percent per year of active duty.
Maximum:	
30 years	30 years
2½ percent year up to	2 percent per year.
30 years or 75 percent	up to 30 years or 60 percent.

B. COLA RECALCULATION

For future recruits, COLA's will be calculated on the basis of the retirees last salary and will be cumulative, not compounded.

Current system				Simon proposal			
Base pay	Amount of Percent COLA	Amount of COLA	Total pay	Base pay	Amount of Percent COLA	Amount of COLA	Total pay
$10,000.00	5	$500.00	$10,500.00	$10,000	5	$500	$10,500
$10,500.00	5	500.00	11,025.00	10,000	5	500	11,000
$11,025.00	5	551.25	11,576.25	10,000	5	500	11,500
$11,576.25	5	578.81	12,155.06	10,000	5	500	12,000
$12,155.06	5	607.75	12,763.81	10,000	5	500	12,500
$12,763.81	5	638.14	13,402.00	10,000	5	500	13,000
$13,402.00	5	670.10	14,072.10	10,000	5	500	13,500
$14,072.10	5	703.60	14,775.70	10,000	5	500	14,000
$14,775.70	5	738.78	15,514.48	10,000	5	500	14,500
$15,514.48	5	775.72	16,290.20	10,000	5	500	15,000
$16,290.20	5	814.51	17,104.71	10,000	5	500	15,500
$17,104.71	5	855.23	17,959.95	10,000	5	500	16,000
$17,959.95	5	897.99	18,857.95	10,000	5	500	16,500
$18,857.95	5	942.89	19,800.85	10,000	5	500	17,000
$19,800.85	5	990.04	20,790.89	10,000	5	500	17,500
$20,790.89	5	1,039.54	21,830.43	10,000	5	500	18,000
$21,830.43	5	1,091.52	22,921.95	10,000	5	500	18,500
$22,921.95	5	1,146.09	24,068.05	10,000	5	500	19,000
$24,068.05	5	1,203.40	25,271.45	10,000	5	500	19,500
$25,271.45	5	1,263.57	26,535.02	10,000	5	500	20,000
$26,535.02	5	1,326.75	27,861.77	10,000	5	500	20,500
$27,861.77	5	1,393.08	29,254.86	10,000	5	500	21,000
$29,254.86	5	1,462.74	30,717.60	10,000	5	500	21,500
$30,717.60	5	1,535.88	32,253.48	10,000	5	500	22,000
$32,253.48	5	1,612.67	33,866.15	10,000	5	500	22,500
$33,866.15	5	1,693.30	35,559.46	10,000	5	500	23,000
$35,559.46	5	1,777.97	37,337.43	10,000	5	500	23,500
$37,337.43	5	1,866.87	39,204.30	10,000	5	500	24,000
$39,204.30	5	1,960.21	41,164.51	10,000	5	500	24,500
$41,164.51	5	2,058.22	43,222.73	10,000	5	500	25,000

TOTAL SAVINGS

Below is CBO's estimate of how much the Simon plan would save over a period of years.

EFFECTS OF SIMON MILITARY RETIREMENT PLAN [1]

[In fiscal year 1986 dollars]

	Fiscal year— 1986	1987	1988	1989	1990	Steady state
FULL SIMON PLAN [2]						
Savings in mil pers cost:						
Retirement as outlays (change in deficit)		−10	−25	−55	−70	
Retirement as accrual	455	1,305	2,135	2,880	3,475	10,700

[1] Vesting at 25 YOS; 2.0 percent multipliers to 30 YOS; COLAs paid only on amount of initial annuity.

[2] COLA provisions simulated by 75 percent COLA.

[Section Analysis]

THE UNIFORMED SERVICES RETIREMENT ACT OF 1985

TITLE I—GENERAL

Section 101. Authority to order members of the retired reserve to active duty:

This section amends current law affecting members eligible to be called back to active duty after retirement. Recruits after the date of enactment will be eligible under this statute after 25 years of active duty instead of 20.

Section 102. Retention of officers after completion of prescribed years of service:

Most services have stringent "up or out" promotion policies which are designed to eliminate members who fail to be promoted after two attempts. Since a member is not eligible for retirement benefits until late in his career, the "up or out" policy is relaxed during the last 2 years of his career. Current law contains a "kindness clause" which prohibits the services from discharging a member who has at least 18 years of active duty. Since members would now be required to serve 25 rather than 20 years, the "kindness clause" would apply to recruits after the date of enactment with 23 years of active duty.

Section 103. Separation pay upon involuntary discharge or release from active duty:

Currently, a member of the services who is discharged after more than 5, but less than 20 years of active duty is entitled to separation pay. This section would require the services to provide separation pay for new recruits with more than 5, but less than 25, years of active duty.

Section 106. Computation of retired pay:

This section changes current law to provide 50% of base pay after 25 years of service and 60% after 30 years of service for those entering after the date of enactment.

Section 107. Adjustment of retired pay and retainer pay to reflect changes in CPI:

This provison will grant cost of living allowances (COLAs) to recruits after the date of enactment. Any calculations will use a static base to increase the retiree's annuity which will make the calculations cumulative, not compounded. The following table illustrates the difference between the method currently being used and the proposed method over a 30 year period for an annuity of $10,000.

TABLE I

Current system				Simon proposal			
Base pay	Amount of		Total pay	Base pay	Amount of		Total pay
	Percent COLA	COLA			Percent COLA	COLA	
$10,000.00	5	$500.00	$10,500.00	$10,000	5	$500	$10,500
$10,500.00	5	525.00	11,025.00	10,000	5	500	11,000
$11,025.00	5	551.25	11,576.25	10,000	5	500	11,500
$11,576.25	5	578.81	12,155.06	10,000	5	500	12,000
$12,155.06	5	607.75	12,763.81	10,000	5	500	12,500
$12,763.81	5	638.14	13,402.00	10,000	5	500	13,000
$13,402.00	5	670.10	14,072.10	10,000	5	500	13,500
$14,072.10	5	703.60	14,775.70	10,000	5	500	14,000
$14,775.70	5	738.78	15,514.48	10,000	5	500	14,500
$15,514.48	5	775.72	16,290.20	10,000	5	500	15,000
$16,290.20	5	814.51	17,104.71	10,000	5	500	15,500
$17,104.71	5	855.23	17,959.95	10,000	5	500	16,000
$17,959.95	5	897.99	18,857.95	10,000	5	500	16,500
$18,857.95	5	942.89	19,800.00	10,000	5	500	17,000
$19,800.85	5	990.04	20,790.89	10,000	5	500	17,500
$20,790.89	5	1,039.54	21,830.43	10,000	5	500	18,000
$21,830.43	5	1,091.52	22,921.95	10,000	5	500	18,500
$22,921.95	5	1,146.09	24,068.05	10,000	5	500	19,000
$24,068.05	5	1,203.40	25,271.45	10,000	5	500	19,500
$25,271.45	5	1,263.57	26,535.02	10,000	5	500	20,000
$26,535.02	5	1,326.75	27,861.77	10,000	5	500	20,500
$27,861.77	5	1,393.08	29,254.86	10,000	5	500	21,000
$29,254.86	5	1,462.74	30,717.60	10,000	5	500	21,500
$30,717.60	5	1,535.88	32,253.48	10,000	5	500	22,000
$32,253.48	5	1,612.67	33,866.15	10,000	5	500	22,500
$33,866.15	5	1,693.30	34,559.46	10,000	5	500	23,000
$35,559.46	5	1,777.97	37,337.43	10,000	5	500	23,500
$37,337.43	5	1,866.87	39,204.30	10,000	5	500	24,000
$39,204.30	5	1,960.21	41,164.51	10,000	5	500	24,500
$41,164.51	5	2,058.22	43,222.73	10,000	5	500	25,000

TITLE II—ARMY

Section 201. Separation or transfer to retired reserve:

The Secretary of the Army has the authority to transfer officers from active to retired reserve status if there is an overabundance of commissioned officers. Currently, only officers with more than 20 years can be considered for this type of transfer. This section would make officers with more than 25 years eligible for this type of transfer. Others sections in this title make existing statutes pertaining to the Army consistent with the general guidelines set out in the first title of this act.

TITLE III—NAVY AND MARINE CORPS

Sections in this title make existing statutes pertaining to the Navy and Marine Corps consistent with the general guidelines set out in the first title of this act.

TITLE IV—AIR FORCE

Sections in this title make existing statutes pertaining to the Air Force consistent with the general guidelines set out in the first title of this act.

TITLE V—COAST GUARD

Sections in this title make existing statutes pertaining to the Coast Guard consistent with the general guidelines set out in the first title of this act.

Mr. SIMON. When the Department of Defense authorization bill reaches the Senate floor, I will offer this legislation as an amendment to that bill.

Mr. President, the military retirement system has been the subject of nine studies in the past decade, none of which has resulted in long-term, structural improvements. We should realize that some change in the current system is inevitable. But I want to make sure that the change is fair to members of our armed services. I would like to propose two simple changes which would result in long-term, continuous improvements to the current system.

Today, a member of the armed services is eligible to receive 50 percent of his or her base pay after 20 years of service and 75 percent of base pay after 30 years. The first of my proposals would require members enlisting after January 1, 1986, to serve a minimum of 25 years of active duty to receive 50 percent of base pay and 30 years to receive 60 percent. Mr. President, what we have today is a system which allows a member with 20 years of service to retire and draw 50 percent of his base pay for the rest of his or her life. Assuming that the average retiree is 43 years old at retirement and that the average life expectancy in the United States is 73, most retirees are able to draw 50 percent of base pay for the next 30 years. My first proposal is a modest attempt to correct what is, to me, an illogical and overly expensive system, but at the same time be fair to those who have already enlisted, to whom a commitment has been made.

The second of my proposals would grant recruits after the date of enactment a full cost-of-living allowance [COLA] based on their most recent annuity, but not compound it when they retire. Currently, retirees are granted COLA's on a base figure that is compounded annually. Under the present system, a person who starts with an annuity of $10,000 the first year and is given a 5-percent cost-of-living allowance the next year, acquires a new base of $10,500. If that same person is given a COLA the following year, he or she will then receive 5 percent of $10,500, or $525, because the compounded base figure is used to calculate the new COLA amount.

According to analysts at Cornell University, almost 95 percent of pension plans in the private sector have no provisions for cost-of-living allowances. While widely discussed in Washington and in the public sector, COLA's are not part of most pension plans in the private sector. I am not willing to say that our retirement systems should not grant cost-of-living allowances. For those relying on pensions as a sole source of income, COLA's are important. Compounding COLA's, however, increases costs too dramatically. What I propose is fair to those in the service, but less costly to the Federal Government.

Mr. President, the two elements of my plan would save the Federal Government several billion dollars over the next three decades and would be $10.7 billion less expensive per year when everyone is under the system.

The material I have included for the RECORD presents some startling facts. For example, military retirement is the second most expensive of all Federal entitlement programs funded exclusively from general tax revenues. Only Medicaid is more expensive. Yet Medicaid covers more than 20 million beneficiaries, while military retirement covers about 1.4 million.

People who serve our country are dedicated Americans and are not interested exclusively in their own financial gain. They also understand that some changes will be made. The proposals I've submitted will not cause hardship and are not unreasonable alterations to the system. Most military personnel and others who have studied the retirement system agree it needs reform.

This is not meant to be a quick-fix solution to the problem. It will not bring substantial reductions in expenditures or present an immediate

cure to our current deficit problems. It will, however, provide long-term structural changes which will save billions of dollars and make the system more equitable.

Critics of this plan will charge that this proposal will present the services with manpower and recruiting problems. I have asked the Congressional Budget Office to study both the savings this plan would realize and its effect on manpower. They reported that there would be a 7.8-percent reduction at the officer level and a 4-percent reduction in the enlisted force.

Mr. President, I have always been a strong proponent of conventional defense and believe this is an area to which we should pay a great deal more attention. If there are manpower effects as a result of this legislation, it would be wise for us to use a portion of the money saved from this legislation for improving retention and recruitment in the form of cash incentives, higher salaries, improved educational benefits or other methods which would address the manpower needs of our forces. And we would still save billions of dollars.

As a veteran, I understand the difficulties of military life. The men and women who defend this country are dedicated and decent people. We should revise the military pension system in a way that protects them and my proposal does that.

Through my 10 years in the House, I have seen this issue debated and studied. Now, more than 10 years later, no substantial changes have been made. If we do not accept my proposal for moderate change, the danger is that we will swing to the opposite extreme and those serving in the military will be hurt. We now have a program which will cost the Federal Government nearly $18 billion in fiscal year 1986. This number will grow. Instead of resisting change when we most need it, Mr. President, I hope that my colleagues will join me in providing a reasonable solution. This action will take some courage. But this issue should be faced squarely, candidly, and soon.

This is not a cure-all for our problems. It is a way of simply saying we want to see a little more common sense used in this budget. Here is a practical way of saving a great deal of money. And I have to believe this is the direction that we ought to go.

Let me add that I served in the Armed Forces myself, and I served overseas. I want to see a good, sound, healthy armed services for this country, but the studies that have been made indicate that, for example, the COLA has virtually no impact on whether people enlist or not and whether you compound the COLA or have the full COLA is not a major factor in anyone's decision on whether or not they go into the service.

In my 10 years in the House and now a few months in the Senate, I have heard a great deal of talk and periodically there are a few dance steps made toward doing something about this. But we do not get anything done. I think here is a chance to really do something.

I repeat that this does not have any impact on those who are now serving. My own position candidly is that we ought to knock the COLA off for those who are now serving and for those who are now retired. But I recognize that is not going to pass this body. So I am suggesting we do everything prospectively; that starting January 1, 1986, those who enlist must serve 25 years. I would point out that the Grace Commission that we have been hearing a lot about lately recommended that we make a 30-year minimum retirement. I am not suggesting that. I am suggesting a 25-year minimum, and that we provide the full cost of living then to those retiring after January 1, 1986, but that we not compound the cost-of-living increases.

I repeat under Congressional Budget Office estimates we will save roughly—this is their minimum estimate—$10.7 billion. They did it with a sliding scale on the cost of living. If the cost of living should average 5 percent or a little better, the savings will be roughly $14 billion. But at a minimum, we will be saving $10.7 billion a year. That, it seems to me, Mr. President, is an effort that is well worthwhile. I hope my colleagues will join in this effort.

I am introducing a bill today. I will be introducing this as an amendment to the Department of Defense bill, the authorization that we will be discussing today and presumably all next week.

Mr. President, 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. 1150

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 "Uniformed Services Retirement Act of 1985".

TITLE I—GENERAL

AUTHORITY TO ORDER MEMBERS OF THE RETIRED RESERVE TO ACTIVE DUTY

SEC. 101. The first sentence of section 688(a) of title 10, United States Code, is amended by striking out "has completed at least 20 years active service" and inserting in lieu thereof "first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has completed at least 20 years of active service or who first became a member of a uniformed service after the date of the enactment of such Act and has completed at least 25 years of active service".

RETENTION OF OFFICERS AFTER COMPLETION OF PRESCRIBED YEARS OF SERVICE

SEC. 102. (a) Subsection (a) of section 1006 of title 10, United States Code, is amended—

(1) by striking out "If on the date prescribed for the discharge or transfer from an active status of a reserve commissioned officer he" and inserting in lieu thereof "(1) If on the date prescribed or his discharge or transfer from an active status as a reserve commissioned officer, such officer is an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and such officer"; and

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

"(2) If on the date prescribed for his discharge or transfer from an active status as a reserve commissioned officer, such officer is an officer who first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 and such officer is entitled to be credited with at least 24, but less than 25, years of service computed under section 1332 of this title, he may not be discharged or transferred from an active status under chapter 337, 361, 363, 573, 837, 861, or 863 of this title or chapter 21 of title 14, without his consent before the earlier of the following dates—

"(A) the date on which he is entitled to be credited with 25 years of service computed under section 1332 of this title; or

"(B) the third anniversary of the date on which he would otherwise be discharged or transferred from an active status.".

(b) Subsection (b) of such section is amended—

(1) by striking out "If on the date prescribed for the discharge or transfer from an active status of a reserve commissioned officer he" and inserting in lieu thereof "(1) If on the date prescribed for his discharge or transfer from an active status as a reserve commissioned officer, such officer is an officer who first became a member of a uniformed service before the date of the enactment of the Uniformed Services Retirement Act of 1985 and such officer"; and

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

"(2) If on the date prescribed for his discharge or transfer from an active status as a reserve commissioned officer, such officer is an officer who first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 and such officer is entitled to be credited with at least 23, but less than 24, years of service computed under section 1332 of this title, he may not be discharged or transferred from an active status under chapter 337, 361, 363, 573, 837, 861, or 863 of this title or chapter 21 of title 14, without his consent before the earlier of the following dates—

"(A) the date on which he is entitled to be credited with 25 years of service computed under section 1332 of this title; or

"(B) the second anniversary of the date on which he would otherwise be discharged or transferred from an active status.".

SEPARATION PAY UPON INVOLUNTARY DISCHARGE OR RELEASE FROM ACTIVE DUTY

SEC. 103. Section 1174 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "who has completed five or more, but less than twenty, years of active service immediately

before that discharge or release" and inserting in lieu thereof "who (1) first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has completed 5 or more, but less than 20, years of active service immediately before that discharge or release, or (2) first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 and has completed 5 or more, but less than 25, years of active service immediately before that discharge or release";

(2) in subsection (b), by striking out "who has completed five or more, but less than twenty, years of active service immediately before that discharge or separation" and inserting in lieu thereof "who (1) first became a member of a uniformed service before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has completed 5 or more, but less than 20, years of active service immediately before that discharge or separation, or (2) first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 and has completed 5 or more, but less than 25, years of active service immediately before that discharge or separation"; and

(3) in subsection (c), by striking out "who has completed five or more, but fewer than 20, years of active service immediately before that discharge or release" and inserting in lieu thereof "who (1) first became a member of a uniformed service before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has completed 5 or more, but less than 20, years of active service immediately before that discharge or release, or (2) first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 and has completed 5 or more, but less than 25, years of active service immediately before that discharge or release".

RETIREMENT OR SEPARATION FOR PHYSICAL DISABILITY

SEC. 104. (a) Clause (3) of section 1201 of title 10, United States Code, is amended—

(1) by striking out subclause (A) and inserting in lieu thereof the following:

"(A) the member first became a member of a uniformed service (as defined in section 1207(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has at least 20 years of service computed under section 1208 of this title;";

(2) by redesignating subclause (B) as subclause (C); and

(3) by inserting after subclause (A) the following new subclause (B):

"(B) the member first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 and has at least 25 years of service computed under section 1208 of this title; or".

(b) Clause (1) of section 1203 of such title is amended to read as follows:

"(1) the member first became a member of a uniformed service (as defined in section 1207(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has less than 20 years of service computed under section 1208 of this title or first became a member of a uniformed service on or after the date of the enactment of such Act and has less than 25 years of service computed under section 1208 of this title;".

(c) Clause (4) of section 1204 of such title is amended—

(1) by striking out subclause (A) and inserting in lieu thereof the following:

"(A) the member first became a member of a uniformed service (as defined in section 1207(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has at least 20 years of service computed under section 1208 of this title;";

(2) by redesignating subclause (B) as subclause (C); and

(3) by inserting after subclause (A) the following new subclause (B):

"(B) the member first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 and has at least 25 years of service computed under section 1208 of this title; or".

(d) Clause (1) of section 1206 of such title is amended to read as follows:

"(1) the member first became a member of a uniformed service (as defined in section 1207(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has less than 20 years of service computed under section 1208 of this title or first became a member of a uniformed service on or after the date of the enactment of such Act and has less than 25 years of service computed under section 1208 of this title;".

(e) Section 1209 of such title is amended by striking out "has at least 20 years of service computed under section 1332 of this title" and inserting in lieu thereof "first became a member of a uniformed service (as defined in section 1207(a)(2) of this title) and has at least 20 years of service computed under section 1332 of this title or first became a member of a uniformed service on or after such date and has at least 25 years of service computed under section 1332 of this title".

(f)(1) Subsection (d) of section 1210 of such title is amended by striking out "if he has at least 20 years of service computed under section 1208 of this title" and inserting in lieu thereof "if he first became a member of a uniformed service (as defined in section 1207(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has at least 20 years of service computed under section 1208 of this title or if he first became a member of a uniformed service on or after the date of the enactment of such Act and has at least 25 years of service computed under section 1208 of this title".

(2) Subsection (e) of such section is amended by striking out "if he has less than 20 years of service computed under section 1208 of this title" and inserting in lieu thereof "if he first became a member of a uniformed service before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has less than 20 years of service computed under section 1208 of this title or if he first became a member of a uniformed service on or after the date of the enactment of such Act and has less than 25 years of service computed under section 1208 of this title".

MINIMUM SERVICE REQUIREMENTS FOR NONREGULAR SERVICE RETIREMENT PAY

SEC. 105. Clause (2) of section 1331(a) of title 10, United States Code, is amended to read as follows:

"(2) he first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has performed at least 20 years of service computed under section 1332 of this title or he first became a member of a uniformed service on or after such date and has performed at least 25 years of service computed under section 1332 of this title;".

COMPUTATION OF RETIRED PAY

SEC. 106. Section 1401 of title 10, United States Code, is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "(a) The monthly retired pay of a person entitled thereto under this subtitle who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 is computed according to the following table.";

(2) by inserting "but before the date of the enactment of the Uniformed Services Retirement Act of 1985," after "1980," in column 1 of the table contained in such section; and

(3) by adding at the end the following new subsection:

"(b)(1) Except as provided in paragraph (2), the monthly retired pay of a person entitled thereto under this subtitle who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 is an amount determined by multiplying the monthly retired pay base of the person (as computed under section 1407(b) of this title) by 2 percent for each year of service, but not more than 30, credited to him under section 1333 of this title (if retired under section 1331 of this title) or under section 1405 of this title (if retired under a section referred to in the table in subsection (a) under the heading 'For sections' opposite formulas numbered 4 and 5).

"(2) The monthly retired pay of a person described in paragraph (1) who is retired under section 1201, 1202, 1204, or 1205 of this title is computed, as the member elects, as follows: Multiply the monthly retired pay base (as computed under section 1407(b) of this title) by—

"(A) 2 percent for each year of service, but not more than 30, credited to the member under section 1208 of this title; or

"(B) the percentage of disability of the member on the date on which he retired, but not more than 60 percent.

"(3) Before applying the percentage factor under paragraph (1) or (2), credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month.".

ADJUSTMENT OF RETIRED PAY AND RETAINER PAY TO REFLECT CHANGES IN CONSUMER PRICE INDEX

SEC. 107. Subsection (b) of section 1401a of title 10, United States Code, is amended to read as follows:

"(b) Each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of such title, the Secretary of Defense shall at the same time—

"(1) in the case of a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985,

increase the retired or retainer pay of such member or former member of the armed forces by the same percent as the percentage by which annuities are increased under such section; and

"(2) in the case of a person who first became a member of a uniformed service on or after the date of the enactment of such Act, increase the retired or retainer pay of such member or former member by applying the same percentage referred to in clause (1) to the retired pay base (as provided for in section 1407(b) of this title) of such member or former member.

Increases in the retired or retainer pay of a person referred to in clause (2) of the preceding sentence shall be cumulative and may not be compounded.".

RECOMPUTATION OF RETIRED OR RETAINER PAY TO REFLECT LATER ACTIVE DUTY

SEC. 108. (a)(1) Section 1402a of title 10, United States Code, is amended by inserting "but before the date of the enactment of the Uniformed Services Retirement Act of 1985," after "September 7, 1980," each place it appears.

(2)(A) The section heading for such section is amended by adding at the end thereof the following: ", but before the date of the enactment of the Uniformed Services Retirement Act of 1985".

(B) The table of sections at the beginning of chapter 71 of such title is amended by striking out the period at the end of the item relating to section 1402a and inserting in lieu thereof the following: ", but before the date of the enactment of the Uniformed Services Retirement Act of 1985.".

(b)(1) Chapter 71 of title 10, United States Code, is further amended by inserting after section 1402a the following new section:

"§ 1402b. Recomputation of retired or retainer pay to reflect later active duty of members who first became members on or after the date of the enactment of the Uniformed Services Retirement Act of 1985

"(a) A member of an armed force who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Uniformed Services Retirement Act of 1985, who has become entitled to retired pay or retainer pay, and who thereafter serves on active duty (other than for training), is entitled to recompute his retired pay or retainer pay upon his release from that duty on the basis of the monthly retired or retainer pay base under section 1407 of this title which he would be entitled to use if (1) he were retiring upon release from that active duty, or (2) he were transferring to the Fleet Reserve or the Fleet Marine Corps Reserve upon that release from active duty multiplied by 2 percent for each year of service, but not more than 30, that may be credited to him in computing his retired or retainer pay.

"(b) A member of an armed force who first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985, who has been retired other than for physical disability, and who while on active duty incurs a physical disability of at least 30 percent for which he would otherwise be eligible for retired pay under chapter 61 of this title, is entitled, upon his release from active duty, to retired pay computed under subsection (d).

"(c) A member of an armed force who first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 and who—

"(1) was retired for physical disability under section 1201 or 1204 of this title or any other law or whose name is on the temporary disability retired list;

"(2) incurs, while on active duty after retirement or after his name was placed on the temporary disability retired list, a physical disability that is in addition to or that aggravates the physical disability for which he was retired or for which his name was placed on that list; and

"(3) is qualified under section 1201, 1202, 1204, or 1205 of this title;

is entitled upon his release from active duty, to retired pay under subsection (d).

"(d) A member of an armed force covered by subsection (b) or (c) may elect to receive either (1) the retired pay to which he became entitled when he retired, increased by any applicable adjustments in that pay under section 1401a of this title after he initially became entitled to that pay, or (2) retired pay computed, as the member elects, as follows: Multiply the monthly retired base pay of the member under section 1407(b) of this title by—

"(A) 2 percent for each year of service, but not more than 30, credited to the member under section 1208 of this title; or

"(B) the highest percentage of disability attained while on active duty after retirement or after the date when his name was placed on the temporary disability retired list, as the case may be, but not more than 60 percent.

"(e) Before applying the percentage factor in subsection (a) or (d), credit each full month of service that is in addition to the number of full years of service creditable to the member as one-twelfth of a year and disregard any remaining fractional part of a month. The amount computed under such subsection, if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1402a the following new item:

"1402b. Recomputation of retired or retainer pay to reflect later active duty of members who first became members on or after the date of the enactment of the Uniformed Services Retirement Act of 1985.".

ANNUITIES BASED ON RETIRED OR RETAINER PAY

SEC. 109. Section 1431 of title 10, United States Code, is amended—

(1) in subsection (b)—

(A) by striking out "nineteen years of service" and inserting in lieu thereof "19 years of service, in the case of a person who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985, or 24 years of service, in the case of a person who first became a member of a uniformed service on or after the date of the enactment of such Act,"; and

(B) by striking out "nineteen years of that service" and inserting in lieu thereof "19 years of that service, in the case of a person who first became a member of a uniformed service before the date of the enactment of the Uniformed Services Retirement Act of 1985, or 24 years of that service, in the case of a person who first became a member of a uniformed service on or after the date of the enactment of such Act"; and

(2) in subsection (c), by striking out "nineteen years of service" and inserting in lieu thereof "19 years of service, in the case of a person who first became a member of a uniformed service before the date of the enactment of the Uniformed Services Retirement Act of 1985, or 24 years of service, in the case of a person who first became a member of a uniformed service on or after the date of the enactment of such Act".

MISCELLANEOUS CONFORMING AMENDMENTS

SEC. 110. (a) Section 1403 of title 10, United States Code, is amended by striking out "1401" and inserting in lieu thereof "1401(a)".

(b) The matter before clause (1) in section 1405 of such title is amended to read as follows: "For the purposes of section 1401(a) (formulas 4 and 5), 1401(b)(1), 3991(a) (formula A), 3991(b), 3992 (formula (B)), 6151(b), 6323(e), 6325 (a)(2), (b)(2), and (d), 6330(c)(1)(B), 6383 (c)(1)(B) and (c)(2), 8991(a) (formula A), 8991(b), or 8992 (formula B) of this title, the years of service of a member of the armed forces are computed by adding—".

TITLE II—ARMY

SEPARATION OR TRANSFER TO RETIRED RESERVE

SEC. 201. Section 3850 of title 10, United States Code, is amended by inserting ", in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985, or 25 years of service, in the case of an officer who first became a member of a uniformed service on or after the date of the enactment of such Act," after "20 years of service".

MINIMUM YEARS OF SERVICE FOR RETIREMENT

SEC. 202. (a)(1) Section 3911 of title 10, United States Code, is amended to read as follows:

"§ 3911. Minimum years of service for retirement

"The Secretary of the Army may, upon the officer's request, retire a regular or reserve commissioned officer of the Army who—

"(1) first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has at least 20 years of service computed under section 3926 of this title, at least 10 years of which have been active service as a commissioned officer; or

"(2) first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 and has at least 25 years of service computed under section 3926 of this title, at least 10 years of which have been active service as a commissioned officer.".

(2) The table of sections at the beginning of chapter 367 of such title is amended by striking out the item relating to section 3911 and inserting in lieu thereof the following:

"3911. Minimum years of service for retirement.".

(b) The first sentence of section 3914 of such title is amended to read as follows: "Under regulations to be prescribed by the Secretary of the Army, an enlisted member of the Army who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and who has at least 20, but less than 30, years of service computed under section 3925 of this title, or an enlisted member of the Army who first

became a member of the armed forces on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 and who has at least 25, but less than 30, years of service computed under section 3925 of this title, may, upon his request, be retired.".

(c)(1) The first sentence of section 3991 of such title is amended to read as follows:

"(a) The monthly retired pay of a person entitled thereto under this subtitle who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 is computed according to the following table.".

(2) The table contained in such section is amended by inserting "but after the date of the enactment of the Uniformed Services Retirement Act of 1985," after "1980," in column 1.

(3) Such section is further amended by adding at the end thereof the following new subsections:

"(b)(1) The monthly retired pay of a person entitled thereto under this subtitle who first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 is an amount determined by multiplying the monthly retired pay base of the person (as computed under section 1407(b) of this title) by 2 percent for each year of service, but not more than 30, credited to him under section 1405 of this title (if retired under a section referred to in the table in subsection (a) under the heading 'For sections' opposite formula A) or section 3917 of this title (if retired under section 3914 or 3917 of this title).

"(2) The Secretary of the Army may increase the monthly retired pay of a person described in paragraph (1) who is retired under section 3914 of this title by 10 percent for extraordinary heroism in line of duty. The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

"(c) The amount computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(d)(1) The first sentence of section 3992 of such title is amended to read as follows: "An enlisted member of the Army who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and who is advanced on the retired list under section 3964 of this title is entitled to recompute his retired pay under formula A of the following table, and a warrant officer of the Army so advanced who first became a member of a uniformed service before such date is entitled to recompute his retired pay under formula B of that table.".

(2) The table contained in such section is amended by inserting "but before the date of the enactment of the Uniformed Services Retirement Act of 1985," after "1980," in column 1.

TITLE III—NAVY AND MARINE CORPS

MINIMUM YEARS OF SERVICE FOR RETIREMENT

SEC. 301. (a) Subsection (c) of section 6322 of title 10, United States Code, is amended by inserting "first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and" after "who" in the material preceding clause (1).

(b) Section 6322 of such title is further amended by adding at the end thereof the following new subsection:

"(d) The monthly retired pay of an officer referred to in subsection (a) who first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 is an amount equal to 60 percent of the monthly retired pay base of the officer (as computed under section 1407(b) of this title).".

MINIMUM YEARS REQUIRED FOR RETIREMENT

SEC. 302. (a) Subsection (a) of section 6323 of title 10, United States Code, is amended to read as follows:

"(a)(1) In the case of an officer of the Navy or Marine Corps who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and who applies for retirement after completing more than 20 years of active service, of which at least 10 years was service as a commissioned officer, may, in the discretion of the President, be retired on the first day of any month designated by the President.

"(2) In the case of an officer of the Navy or Marine Corps who first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 and who applies for retirement after completing more than 25 years of active service, of which at least 10 years was service as a commissioned officer, may, in the discretion of the President, be retired on the first day of any month designated by the President.".

(b) Subsection (e) of such section is amended—

(1) by inserting "(1)" after "(e)";

(2) by inserting "who first became a member of a uniformed service before the date of the enactment of the Uniformed Services Retirement Act of 1985" after "this section" in the material preceding clause (1);

(3) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively; and

(4) by adding at the end the following new paragraph:

"(2) Unless otherwise entitled to higher pay, an officer retired under this section who first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 is entitled to monthly retired pay in an amount determined by multiplying the monthly retired pay base of the officer (as computed under section 1407(b) of this title) by 2 percent for each year of service, but not more than 30, that may be credited to him under section 1405 of this title.".

RETIRED GRADE AND PAY OF OFFICERS

SEC. 303. (a) Subsection (a) of section 6325 of title 10, United States Code, is amended by striking out "subsection (b) or" in the text preceding clause (1) and inserting in lieu thereof "subsections (b) and (d) and".

(b) Subsection (b) of such section is amended by striking out "Each" at the beginning of such subsection and inserting in lieu thereof "Except as provided in subsection (d), an".

(c) Such section is further amended by adding at the end thereof the following new subsection:

"(d) An officer referred to in subsection (a) or (b) who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 is entitled to monthly retired pay at the rate of 2 percent of the monthly retired pay base of the officer (as computed under section 1407(b) of this title) multiplied by the number of years of service that may be credited to him under section 1405 of this title, but the monthly retired pay so computed may not be more than 60 percent of the monthly retired pay base.".

COMPUTATION OF RETIRED PAY FOR ENLISTED MEMBER WITH 30 OR MORE YEARS OF SERVICE

SEC. 304. Section 6326 of title 10, United States Code, is amended—

(1) in subsection (c), by striking out "Each" and inserting in lieu thereof "Except as provided in subsection (d), a"; and

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

"(d) The monthly retired pay of an enlisted member referred to in subsection (a) who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 is an amount equal to 60 percent of the monthly retired pay base of the member (as computed under section 1407(b) of this title).".

MINIMUM SERVICE TO QUALIFY FOR TRANSFER TO THE FLEET RESERVE OR THE FLEET MARINE CORPS RESERVE

SEC. 305. (a) Subsection (b) of section 6330 of title 10, United States Code, is amended to read as follows:

"(b)(1) An enlisted member of the Regular Navy or the Naval Reserve who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and who has completed 20 or more years of active service in the armed forces may, at his request, be transferred to the Fleet Reserve. An enlisted member of the Regular Marine Corps or the Marine Corps Reserve who first became a member of a uniformed service before the date of the enactment of the Uniformed Services Retirement Act of 1985 and who has completed 20 or more years of active service in the armed forces may, at his request, be transferred to the Fleet Marine Corps Reserve.

"(2) An enlisted member of the Regular Navy or the Naval Reserve who first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 and who has completed 25 or more years of active service in the armed forces may, at his request, be transferred to the Fleet Reserve. An enlisted member of the Regular Marine Corps or the Marine Corps Reserve who first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 and who has completed 25 or more years of active service in the armed forces may, at his request, be transferred to the Fleet Marine Corps Reserve.".

(b) Subsection (c)(1) of such section is amended—

(1) by striking out "Each" at the beginning of such subsection and inserting in lieu thereof "(A) Except as provided in subparagraph (B), a";

(2) by redesignating clauses (A) and (B) of paragraph (1) as clauses (i) and (ii), respectively; and

(3) by adding at the end thereof the following new subparagraph:

"(B) A member who first became a member of a uniformed service on or after

the date of the enactment of the Uniformed Services Retirement Act of 1985 and who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under this section is entitled, when not on active duty, to monthly retainer pay in an amount determined by multiplying the monthly retired pay base of the member (as computed under section 1407(b) of this title) by 2 percent for each year of active service in the armed forces, but not more than 30.".

COMPUTATION OF PAY OF CERTAIN MEMBERS INVOLUNTARILY RETIRED

SEC. 306. (a) Subsection (c) of section 6383 of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(c)";

(2) by redesignating subclauses (A) and (B) of clause (2) as subclauses (i) and (ii), respectively;

(3) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(4) by inserting "but before the date of the enactment of the Uniformed Services Retirement Act of 1985," after "1980," in subclause (ii) of clause (B), as redesignated by clause (2) of this section; and

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

"(2) An officer retired under subsection (a) or (b) who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 is entitled to monthly retired pay in an amount determined by multiplying the monthly retired pay base of the member (as computed under section 1407(b) of this title) by 2 percent for each year of service, but not more than 30, that may be credited to him under section 1405 of this title.".

(b) Subsection (i) of such section is amended by inserting "in the case of an officer who first became a member of a uniformed service before the date of the enactment of the Uniformed Services Retirement Act of 1985, or beyond 28 years, in the case of an officer who first became a member of a uniformed service on or after the date of the enactment of such Act," after "24 years of commissioned active service," in the second sentence.

ELIMINATION FROM ACTIVE SERVICE OF CERTAIN OFFICERS WHO HAVE TWICE FAILED OF SELECTION FOR PROMOTION.

SEC. 307. Subsection (c) of section 6389 (c) of title 10, United States Code, is amended—

(1) by striking out "20 years" in the table under the heading "Total commissioned service" and inserting in lieu thereof "20 years (in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985) or 25 years (in the case of an officer who first became a member of a uniformed service on or after such date)"; and

(2) by striking out the period at the end of the fourth sentence and inserting in lieu thereof ", in the case of an officer who first became a member of a uniformed service before the date of the enactment of the Uniformed Services Retirement Act of 1985, or if the officer can complete at least 25 years of service as computed under section 1332 of this title during the period of such deferment, in the case of an officer who first became a member of a uniformed service on or after the date of the enactment of such Act."

TITLE IV—AIR FORCE

SEPARATION OR TRANSFER TO RETIRED RESERVE

SEC. 401. Section 8850 of title 10, United States Code, is amended by inserting ", in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985, or 25 years of service, in the case of an officer who first became a member of a uniformed service on or after the date of the enactment of such Act," after "20 years of service".

MINIMUM YEARS OF SERVICE FOR RETIREMENT

SEC. 402. (a)(1) Section 8911 of title 10, United States Code, is amended to read as follows:

"§ 8911. Minimum years of service for retirement

"The Secretary of the Air Force may, upon the officer's request, retire a regular or reserve commissioned officer of the Air Force who—

"(1) first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has at least 20 years of service computed under section 8926 of this title, at least 10 years of which have been active service as a commissioned officer; or

"(2) first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 and has at least 25 years of service computed under section 8926 of this title, at least 10 years of which have been active service as a commissioned officer.".

(2) The table of sections at the beginning of chapter 867 of such title is amended by striking out the item relating to section 8911 and inserting in lieu thereof the following:

"8911. Minimum years of service for retirement.".

(b) The first sentence of section 8914 of such title is amended to read as follows: "Under regulations to be prescribed by the Secretary of the Air Force, an enlisted member of the Air Force who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and who has at least 20, but less than 30, years of service computed under section 8925 of this title, or an enlisted member of the Air Force who first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 and who has at least 25, but less than 30, years of service computed under section 8925 of this title, may, upon his request, be retired.".

(c)(1) The first sentence of the text preceding the table in section 8991 of such title is amended to read as follows:

"(a) The monthly retired pay of a person entitled thereto under this subtitle who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 is computed according to the following table.".

(2) The table contained in such section is amended by inserting "but after the date of the enactment of the Uniformed Services Retirement Act of 1985," after "1980," in column 1.

(3) Such section is further amended by adding at the end thereof the following new subsections:

"(b)(1) The monthly retired pay of a person entitled thereto under this subtitle who first became a member of a uniformed service on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 is an amount determined by multiplying the monthly retired pay base of the person (as computed under section 1407(b) of this title) by 2 percent for each year of service, but not more than 30, credited to him under section 1405 of this title (if retired under a section referred to in the table in subsection (a) under the heading 'For sections' opposite formula A) or section 8925 of this title (if retired under section 8914 or 8917 of this title).

"(2) The Secretary of the Air Force may increase the monthly retired pay of a person described in the preceding sentence who is retired under section 8914 of this title by 10 percent for extraordinary heroism in line of duty. The Secretary's determination as to extraordinary heroism is conclusive for all purposes.

"(c) The amount computed under this section, if not a multiple of $1, shall be rounded to the next lower multiple of $1.".

(d)(1) The first sentence of section 8992 of such title is amended to read as follows: "An enlisted member of the Air Force who first became a member of a uniformed service (as defined in section 1407(a)(2) of this title) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and who is advanced on the retired list under section 8964 of this title is entitled to recompute his retired pay under formula A of the following table, and a warrant officer of the Air Force so advanced who first became a member of a uniformed service before such date is entitled to recompute his retired pay under formula B of that table.".

(2) The table contained in such section is amended by inserting "but before the date of the enactment of the Uniformed Services Retirement Act of 1985," after "1980," in column 1.

TITLE V—COAST GUARD

RETIREMENT UPON FAILURE FOR SELECTION FOR PROMOTION

SEC. 501. (a) Clauses (3) and (4) of section 283(a) of title 14, United States Code, are amended to read as follows:

"(3) if, on the date specified for his discharge in this section, the officer has completed at least 20 years of active service (in the case of a member who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10) before the date of the enactment of the Uniformed Services Retirement Act of 1985) or at least 25 years of active service (in the case of a member who first became a member of a uniformed service on or after the date of the enactment of such Act) or is eligible for retirement under any law, be retired on that date; or

"(4) if, on the date specified for his discharge in clause (1), the officer has completed at least 18 years of active service (in the case of an officer who first became a member of a uniformed service before the date of the enactment of the Uniformed Services Retirement Act of 1985) or at least 23 years (in the case of an officer who first became a member of a uniformed service on or before the date of the enactment of such Act), be retained on active duty and retired on the last day of the month in which he completes 20 years of active service (in the

case of a member who first became a member of a uniformed service before the date of the enactment of the Uniformed Services Retirement Act of 1985) or 25 years of active service (in the case of a member who first became a member of a uniformed service on or after the date of the enactment of such Act), unless earlier removed under another provision of law.".

(b) Clauses (1) and (2) of section 285 of such title are amended to read as follows:

"(1) if the officer—

"(A) has completed at least 20 years of active service, in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10) before the date of the enactment of the Uniformed Services Retirement Act of 1985, or at least 25 years of active service, in the case of an officer who first became a member of a uniformed service on or after the date of the enactment of such Act, or

"(B) is eligible for retirement under any law on June 30 of the promotion year in which his second failure of selection occurs;

be retired on that date; or

"(2) if ineligible for retirement on the date specified in clause (1), be retained on active duty and retired on the last day of the month in which he completes 20 years of active service, in the case of an officer who first became a member of a uniformed service before the date of the enactment of the Uniformed Services Retirement Act of 1985, or 25 years of active service, in the case of an officer who first became a member of a uniformed service on or after the date of the enactment of such Act, unless earlier removed under another provision of law.".

(c) Section 289(g) of such title is amended by striking out "twenty years of active service" and inserting in lieu thereof "20 years of active service, in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10) before the date of the enactment of the Uniformed Services Retirement Act of 1985, or 25 years of active service, in the case of an officer who first became a member of a uniformed service on or after the date of the enactment of such Act".

MINIMUM YEARS OF SERVICE FOR VOLUNTARY RETIREMENT

SEC. 502. (a) Section 291 of title 14, United States Code, is amended by striking out "twenty years' active service" and inserting in lieu thereof "20 years of active service (in the case of an officer who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10) before the date of the enactment of the Uniformed Services Retirement Act of 1985) or 25 years of active service (in the case of an officer who first became a member of a uniformed service on or after the date of the enactment of such Act)".

(b)(1) The section heading of such section is amended to read as follows:

"§ 291. Minimum years of service for voluntary retirement".

(2) The table of sections at the beginning of chapter 11 of such title is amended by striking out the item relating to section 291 and inserting in lieu thereof the following:

"291. Minimum years of service for voluntary retirement.".

VOLUNTARY RETIREMENT

SEC. 503. Section 355 of title 14, United States Code, is amended by striking out "has completed twenty years' service" and inserting in lieu thereof "first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has completed 20 years of service or who first became a member of a uniformed service on or after the date of the enactment of such Act and has completed 25 years of service".

RETIREMENT OF ENLISTED PERSONNEL

SEC. 504. Section 357 of title 14, United States Code, is amended—

(1) in subsection (a), by striking out "have twenty years service," in the first sentence and inserting in lieu thereof "first became members of a uniformed service (as defined in section 1407(a)(2) of title 10) before the date of the enactment of the Uniformed Services Retirement Act of 1985 and have 20 years of service or who first became members of a uniformed service on or after the date of the enactment of such Act and have completed 25 years of service,";

(2) in subsection (b), by striking out "has completed twenty years' service" and inserting in lieu thereof "first became a member of a uniformed service before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has completed 20 years of service or who first became a member of a uniformed service on or after the date of the enactment of such Act and has completed 25 years of service,"; and

(3) in subsection (c), by striking out "retired by reason of twenty years' service," and inserting in lieu thereof "who first became a member of a uniformed service before the date of the enactment of the Uniformed Services Retirement Act of 1985 and has 20 years of service, or who first became a member of a uniformed service on or after such date and has completed 25 years of service,".

COMPUTATION OF RETIRED PAY

SEC. 505. Subsection (b) of section 423 of title 14, United States Code, is amended —

(1) by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)"; and

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

"(c) The monthly retired pay of a person entitled to retired pay under this title who first became a member of a uniformed service (as defined in section 1407(a)(2) of title 10) on or after the date of the enactment of the Uniformed Services Retirement Act of 1985 is 2 percent of the monthly retired pay base of the person (as computed under section 1407(f) of title 10) multiplied by the number of years of service that may be credited to him under section 1405 of title 10, but the retired pay so computed may not be more than 60 percent of such monthly retired base.".

By Mr. DIXON (for himself, Mr. JOHNSTON, Mr. PRYOR, Mr. RIEGLE, and Mr. SASSER):

S. 1151. A bill to amend the Federal Deposit Insurance Act; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. DIXON and the text of the legislation appear earlier in today's RECORD.)

By Mr. KERRY:

S. 1152. A bill to amend the Internal Revenue Code of 1954 to increase all civil and criminal tax penalties for taxpayers who avoid their fair share of Federal taxes, to increase the voluntary compliance of the Federal tax laws, and for other purposes; to the Committee on Finance.

TAXPAYER AWARENESS AND ENFORCEMENT ACT

● Mr. KERRY. Mr. President, during the debate last week on the budget, I proposed a tax enforcement amendment which endorses measures which would accomplish substantial deficit reduction and address the growing problem of income tax evasion. Due to the overwhelmingly positive support we received on the amendment, I am today introducing a bill entitled the "Federal Taxpayer Awareness and Enforcement Act of 1985." The bill represents a fundamental improvement in fiscal fairness because it will help eliminate the pressure for painful budget cuts, while at the same time insuring that all Americans meet their obligation to comply with existing tax laws.

All of us are aware of the magnitude of the Federal budget deficit, and the serious economic challenge we face as the result. Unfortunately, we have another problem that is nearly as large, and has received much less attention: approximately $100 billion in revenues is lost each year to tax cheaters. This is a grave problem, and it's rapidly growing worse. According to the General Accounting Office, the "tax gap" of uncollected revenues has grown by 300 percent over the last decade.

Recent studies show an astonishing number of Americans see tax cheating—nonfiling, under-reporting, or overstating deductions—as a common and accepted practice. A 1984 Yankelovich survey for the IRS found that a majority of Americans believe that over 25 percent of the public cheat on their taxes, and that such cheating is becoming more prevalent. Even more alarming is the perception by 41 percent of the taxpayers, that cheaters are unlikely or certain not to be caught. Our fundamental aim is to reverse this perception and the underlying trend on which it is based. This bill is not designed to increase or substantially alter withholding requirements or recordkeeping on the 80 percent of the individuals in this country who are honest taxpayers. The basic intent of this act is to ensure that IRS has the resources and the means to effectively use the information which is already in the system to obtain compliance from the 20 percent of the taxpayers who are evading their taxes.

The strategy proposed in this bill is twofold. First, a period of taxpayer awareness would be offered so that all Americans will be fully aware of the effects that tax cheaters have on honest individuals, the deficit of this country, and the new programs that will go into effect to identify and collect taxes from those taxpayers who don't pay their fair share. The second phase of the initiative is a significant

enforcement program designed to crack down on tax shelter promoters, and individuals and corporations in flagrant violation of tax laws. The explicit aim of this enforcement effort is to make an example of those who violate the law, and thereby demonstrate that tax evaders will be swiftly brought to justice and pay the penalty for violating the law.

The initiative in this act will increase taxpayer compliance and raise billions of dollars. Both approaches have already been put to a test on the State level. Over the last couple of years, several States have increased their revenues through some of the same measures in this act. Hundreds of millions of dollars in previously uncollectable revenues were raised, and the success of these efforts exceeded even the most optimistic assumptions. By raising Federal taxpayer compliance by 5 percent over 5 years as stated in the bill, estimated revenue collections will increase by about $30 billion a year.

Mr. President, I ask unanimous consent that a factsheet on this legislation be printed in the RECORD.

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

THE FEDERAL TAXPAYER AWARENESS AND ENFORCEMENT ACT OF 1985—FACTS ON TAX COMPLIANCE

IRS estimates that the "tax gap" is now approaching $100 billion a year, and growing every day. GAO says this estimate is conservative.

Legal sector tax gap has tripled in the last decade.

The compliance gap can be accounted for chiefly as follows: Individual underreporting of legal income, 69%; overstated deductions or credits, 13%; unreported illegal income, 8%; corporate underreporting or overstating, 4%; and other, 6%.

Delinquent payments of approximately $30 billion are owed.

IRS has shown conclusively that using existing examination or audit techniques, every $1 spent results in a return of $5 or $6. For every $1 spent on accounts receivable, $18 to $20 is returned.

IRS staff has only increased by approximately 3% in the last 10 years while tax returns have increased by about 46%.

IRS will only be able to examine about 1.2% of the returns in 1986 compared to 2.6% in 1976.

1984 Yankelovich study found that: One in 5 persons admitted to tax cheating; a majority believed that over 25% of the public is cheating on their taxes and 1 in 4 felt that more than half of the public is cheating to some extent; a majority perceived that it was certain or unlikley that tax cheaters would be caught (a taxpayer has a 1 in 43,000 chance of being subject to a criminal investigation); and a majority of the public believe that tax cheating is becoming more prevalent.

"The National Governors' Association has urged the Administration and Congress to strengthen federal tax enforcement tools, powers, or other resources for the Internal Revenue Service as integral to any tax reform proposal and integral to initiatives designed to tackle the deficit crisis. They estimate that as much as $20 billion annually could be saved by the Treasury through an intensive effort to tighten federal enforcement."

ELEMENTS OF THE FEDERAL TAXPAYER AWARENESS AND ENFORCEMENT ACT OF 1985

A taxpayer awareness program that through the extensive use of media will inform taxpayers of: the effect tax cheaters have on the honest taxpayers; the effect tax cheaters have on the national deficit; and the efforts IRS will undertake to find these cheaters.

Tax Compliance certification required from federal contractors, borrowers, employees and licensees.

Aggressive public disclosure of flagrant tax violators along with an aggressive public relations campaign to build support and confidence in the tax administration system.

Greater sharing of data among different levels of government.

Contracting collection of uncollectables to private collection agencies.

Require local government units to report real property capital gains.

Resources to raise voluntary compliance by 5% within 5 years.

5% increase in voluntary compliance would raise approximately $30 billion a year.

Increased Penalties of 50% or more.●

By Mr. D'AMATO:

S. 1153. A bill to provide for the distribution within the United States of the U.S. Information Agency film entitled "Hal David: Expressing a Feeling"; to the Committee on Foreign relations.

PROVIDING FOR DISTRIBUTION AND SHOWING OF "HAL DAVID: EXPRESSING A FEELING"

● Mr. D'AMATO. Mr. President, I rise today to introduce legislation to allow the U.S. Information Agency [USIA] to release for distribution and use in the United States the film, "Hal David: Expressing a Feeling." This film is the first in a series of USIA documentaries on American songwriters.

By some quirk of law, materials produced by USIA using taxpayers' moneys cannot be shown domestically. It becomes necessary, therefore, to pass special legislation to allow the viewing of such films in the United States.

"Hal David: Expressing a Feeling" is a profile of one of the most talented and prolific songwriters in our Nation. It is ironic that Americans need an act of Congress to enjoy a film about one of the treasures of our own culture. I hope this body will act quickly on this bill so this film can be made available to the American people as soon as possible.

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. 1153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) notwithstanding the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(A) the Director of the United States Information Agency shall make available to the Administrator of General Services a master copy of the film entitled "Hal David: Expressing a Feeling"; and

(B) subject to paragraph (2), the Administrator shall reimburse the Director for any expenses of the agency in making that master copy available, shall deposit that film in the National Archieves of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

(2) The Administrator shall carry out his duties under clause (B) of paragraph (1) only after the United States Government has acquired, after the date of enactment of this Act, any remaining license or other rights which are not Government-held before such date and which are required for distribution within the United States of the film entitled "Hal David: Expressing a Feeling" without use of funds appropriated or otherwise made available to any department, agency, instrumentality, or office of the United States.

(b) Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.●

By Mr. MATSUNAGA (for himself, Mr. PRESSLER, Mr. INOUYE, Mr. SARBANES, Mr. MELCHER, Mr. BURDICK, Mr. PELL, Mr. LEAHY and Mr. HUMPHREY):

S. 1154. A bill to amend title XVIII of the Social Security Act to provide for direct Medicare reimbursement for services performed by registered nurse anesthetists; to the Committee on Finance.

DIRECT MEDICARE REIMBURSEMENT FOR SERVICES OF REGISTERED NURSE ANESTHETISTS

Mr. MATSUNAGA. Mr. President, in the unceasing battle against ever-escalating health care costs, I am today introducing with Mr. PRESSLER, Mr. INOUYE, Mr. SARBANES, Mr. MELCHER, Mr. HUMPHREY, Mr. BURDICK, Mr. PELL, and Mr. LEAHY, as cosponsors, legislation to modify the Medicare reimbursement system with regard to anesthesia services in order to provide for more affordable care, cost efficiencies for the Medicare system, and improved access to care in many parts of the country.

Our bill S. 1154 would provide for direct Medicare part B reimbursement to certified registered nurse anesthetists [CRNA's]. Unlike determinations of physician reimbursements, this legislation would permit the Secretary of Health and Human Services to set the rates at which CRNA's would be paid under part B. These rates could be prospectively determined based on groupings of costs similar to the hospital diagnosis related grouping [DRG] payment. The costs of such a system of direct reimbursement would be limited so as not to exceed comparable

costs of utilizing CRNA's under the current Medicare reimbursement structure. Our bill will not create a new benefit. Rather, it would effect a simple shifting of the payment mechanism from part A and B of Medicare under current law to part B.

S. 1154 would do nothing to change the current Medicare requirements of physician supervision under the Medicare conditions of participation for CRNA's. It would, however, provide an alternative method of Medicare reimbursement for nurse anesthetist services that would not discourage the use of nurse anesthetists. It would provide an incentive to hospitals to employ or contract with CRNA's, which would help to dampen spiraling health costs while maintaining the quality of health care.

Mr. President, the Deficit Reduction Act of 1984 (Public Law 98-369) contained a "passthrough" amendment for CRNA's. This amendment provided for the costs of CRNA's to be paid or "passedthrough" outside the current prospectively fixed payment made to hospitals. Under this system, hospitals are being reimbursed under part A for reasonable costs they incurred for anesthesia services provided by a CRNA. This provision applies to cost reporting periods that began on or after October 1, 1984, and will last for only 3 years for hospitals utilizing it. This provision is a temporary solution adopted by Congress to rectify an unintended effect of the DRG law. Under the original medicare prospective payment statute, disincentives for the use of CRNA's were created. S-1154 proposes a long-term solution to the problem.

Mr. President, CRNA's are highly educated, qualified and licensed health professionals who have been providing much of the anesthesia services in this country for about 100 years. There are approximately 18,000 active practicing CRNA's who provide 70 percent of the anesthesia care in rural areas and 50 percent of such services nationwide. Their practice is legally sanctioned through State laws and regulations in all 50 States and U.S. territories. Thirty-four States have recognized CRNA's in an expanded role for professional nurses practicing in collaboration with physicians, dentists, and other health professionals who are themselves legally authorized to render anesthesia services.

By any norms, this is a profession with rigorous standards. A CRNA is a professional nurse who has subsequently graduated from a nurse anesthesia educational program accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs and Schools, and who has passed a national examination for certification in the specialty, administered by the Council on Certification of Nurse Anesthetists. The recertification process requires that every 2 years, each CRNA demonstrate evidence of current licensure as a registered nurse, active practice as a nurse anesthetist, and appropriate continuing education within the specialty.

CRNA's can practice in one of three ways: (1) as a hospital employee, (2) as a physician employee, or (3) as a self-employed professional. The self-employed CRNA bills directly under such private insurance and medicaid programs which permit it and contracts with hospitals when direct billing is not permissible. Currently, 50 percent of CRNA's are hospital employees, 35 percent are employed by physicians, 11 percent are self-employed and four are in an "other" category of employment. Their median annual earnings amount to about $35,000.

By recognizing CRNA's as directly reimbursable health professionals, we would be taking advantage of a tested, cost-effective option in providing high quality anesthesia services at reduced costs. In fact, such recognition would inject the crucial element of economic competition into the delivery of anesthesia services, with resulting lower costs.

Presently, over 30 percent of Blue Cross-Blue Shield plans directly reimburse CRNA's for their services. There are eight States which directly reimburse CRNA's under the medicaid programs. Of the private insurance plans surveyed, 57 percent indicate they can provide direct reimbursement to CRNA's for anesthesia services. Such reimbursement also is available under the CHAMPUS Program covering active and retired military personnel and their dependents.

Medicare reimbursement was originally designed to conform with existing private, nongovernmental insurance plans. Since the enactment of Medicare, those plans have changed dramatically in that many private insurers make direct payments to a number of licensed health professionals on a charge basis for services they deliver. Medicare has been amended with respect to hospital cost reimbursement to reflect current needs. It also should be changed to provide medicare reimbursement to health professionals to reflect subsequent changes in non-Medicare programs such as in Blue Shield and CHAMPUS.

Supporting this concept is a 1981 research report entitled "Competition Among Health Practitioners" which was submitted to the Federal Trade Commission by Lewin and Associates. This report shows that current reimbursement practices regarding health professionals tend to limit innovation and promote inefficiency. Reimbursement policies that place CRNA's or other nonphysician health professionals at a competitive disadvantage interfere with innovation in health care delivery and severely limit consumer choice. Where CRNA's are used only as physician complements rather than, in appropriate cases, substitutes, costs are likely to go up and productivity decline.

Medicare part B reimbursement policy clearly creates these problems of inefficiency and costliness and is probably the greatest offender of all health care payors in this particular area. Trends in other insurance programs such as Blue Shield reflect the recognition by other insurors that it is efficient and sensible to provide for direct reimbursement to CRNA's.

The major arguments made against nonphysician direct reimbursement, such as the contention that direct reimbursement is hard to administer and that it results in poor quality care and is costly, cannot be made against CRNA's for the following reasons:

First CRNA's provide a discrete, easily identifiable item of service which is presently listed separately as an item of charge under private plans and appears separately as a part of a physician's service under part B of medicare. Therefore, to administer a direct reimuburseement plan for CRNA's is simple.

Second, CRNA's must practice always in a setting where a physician is present and supervising. In addition, hospitals exercise quality control by virtue of their ability to grant or withhold hospital privileges to CRNA's.

Third, the services of CRNA's are not subject to limitless demand which the CRNA can stimulate since physicians control whether there will be a medical intervention requiring anesthesia services.

I would like to emphasize that the bill, S. 1154, specifically ensures that State laws relating to the practice of medicine or nursing or State law requirements, with regard to the administration of anesthesia and its medical direction or supervision, will not be affected by its passage in any way.

Furthermore, it has been estimated that the cost of the direct reimbursement provisions would be the same as if the current reimbursement system is retained. Some savings are expected in fiscal year 1987 and thereafter relative to the costs for CRNA services that would be incurred when the passthrough provision is scheduled to terminate.

Given the current atmosphere of hospital reimbursement constraints, anesthesia services may become less accessible in sparsely populated areas of the country. Already there are serious problems in some regions where anesthesologists do not practice and where hospitals are too small to employ CRNA's full time and remain cost-efficient.

Prior to the "passthrough" provision, contracting with CRNA's for this

service often placed a prohibitive cost on a hospital's budget under the hospital payment limits. Contracting entails administrative costs which some hospitals indicate are much less acceptable. Direct reimbursement is, in these situations, the only method by which anesthesia services could be furnished by a CRNA and paid for by medicare.

Direct reimbursement to CRNA's would enable medicare to generate complete, accurate and current data related to anesthesia care providers, the consumers they serve, and the costs associated with that care.

As previously noted, the vast majority of CRNA services are provided in hospital in-patient settings. Therefore, the case for allowing direct reimbursement to CRNA's is a special one. Such a professional service presents an opportunity to link professional service reimbursement to the DRG-related prospective payment systems. Such reimbursement could be a model for relating part B professional service reimbursement to part A prospective payment. Reimbursement rates to CRNA's could be developed by utilizing related factors such as patient risk, complexity of medical intervention, and essential anesthesia resource requirements, in a manner allowing easier verification of the appropriateness of charge or cost-based billings.

Mr. President, I urge my colleagues to join me in supporting the innovative move in health care proposed by S. 1154.

Mr. President, I ask unanimous consent that a cost estimate for this bill, prepared recently by the American Association of Nurse Anesthetists, be printed in the RECORD at this point, and that the text of the bill, S. 1154, be printed immediately following it.

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

DESCRIPTION OF BILL AND COSTING METHODS

This bill provides for direct reimbursement for anesthesia services to CRNA's under Medicare Part B. The bill does not specify the payment method. It specifically provides HHS with authority to fix the payment rate at amounts consistent with considerations of quality and efficiency, taking into account prevailing rates paid for CRNA services. The bill specifically is not a fee for service approach based only on actual, customary or prevailing charges. The prevailing CRNA system, which shall be considered as part of establishing a rate, is generally not a fee for service, charge system. Only 8% of CRNA's or about 1,500 practice in a CRNA group which bills payors directly for services on a charge basis. The remainder are hospital employees (50-55%) and physician employees (35-40%) whose services are paid as part of the hospital payment or physician fee. (Some CRNA's are in the military or VA and are not counted.)

In establishing a fixed payment for a CRNA service, we assume HCFA may follow one of two approaches that are related. It will either seek to relate CRNA costs to surgical DRG's and fix a price that way or it will establish a price per unit of service based more generally on the average annual compensation plus overhead allowance attributable to CRNA's divided by an annual average number of procedures. Under either approach an economic updating factor should be used, but would function as a rate of increase ceiling. In no case, under either approach, should a CRNA receive less than presently received from Medicare as compensation per unit of service, whether the CRNA is hospital employed, physician employed or self employed with a hospital contract.

In no case will the total payments by Medicare necessarily exceed the prior years total payments for CRNA services except for the inflation adjustment. If a CRNA were hosptial-employed or a hosptial contractor, HCFA will have data on costs per case or total costs under the "pass through" provisions of the Deficit Reduction Act § 2312. Under this approach either a cost based rate per surgical DRG case can be established or a standard rate per case for each CRNA by hospital.

The CRNA employed by the physician is in a different situation. Physician fees include the CRNA charge and have not been separated out by HCFA. There has been no reporting as to that part of the physician fee which is attributable to the CRNA. We urge that HCFA be based on a sample basis to do this data collection. The physician fee including the CRNA will be DRG related, however. We can estimate the amount of salary plus fringe benefits and overhead of average physician employed CRNA. It is also possible to develop, from CRNA's and by estimation, the current compensation per unit of service. From this a CRNA profile of cost related rates per unit of service can be constructed.

Our current fiscal year 1985 estimate of costs related to CRNA services on Medicare cases is about $280 million. This estimate is based on HCFA's estimated cost of the pass through provision of $160 million plus an estimated cost of $120 million for CRNA services billed under Part B.

This is also our estimate of the cost of the direct reimbursement provisions since the costs under current law will be used to construct the payment rate. The provision is not a new benefit, but simply a shifting of the payment mechanism from Parts A and B of Medicare under current law to Part B under the bill. There is no net cost since $280 million is being spent under Parts A and B now. The net cost would increase above $280 million only if the number of cases is increased. The unit cost per case would remain the same except for an inflator. It is not expected that the number of CRNA's in practice will increase, however, given present trends. While the number of cases may increase, the increase is not expected to be significant and would have occurred in any event.

Some savings are expected from this provision relative to costs Medicare would incur in fiscal year 1987 and thereafter when the current Part A and B exceptions for CRNA services end. With CRNA's paid from the hospital DRG payment, as will be the case in fiscal year 1987 and thereafter, hospitals will have an incentive to over-utilize physician services at the expense of CRNA services since they can be billed and paid directly under Part B. The cost of a service is conservatively 3 to 4 times as great when a physician performs the service as a CRNA based upon earning differentials as reflected in recent HCFA data. If substitution occurs in only 20% of the cases, the excess cost to Medicare would be about $150 million. This bill can therefore be estimated to save about $150 million in fiscal year 1987 and thereafter assuming a 20% substitution factor. This seems a reasonable assumption based on hospital actions prior to fiscal year 1984 and fiscal year 1985 when the pass through and unbundling exceptions for CRNA's were created.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) section 1861(s) of the Social Security Act is amended—

(A) by redesignating paragraphs (11) through (14) as paragraphs (12) through (15), respectively;

(B) by striking out "and" at the end of paragraph (9);

(C) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(D) by inserting after paragraph (10) the following new paragraph:

"(11) anesthesia services and related care provided by a registered nurse anesthetist.".

(2) Section 1864(a) of such Act is amended by striking out "paragraphs (11) and (12)" and inserting in lieu thereof "paragraphs (12) and (13)".

(b) Section 1861 of such Act is amended by adding after subsection (aa) the following new subsection:

"ANESTHESIA SERVICES PROVIDED BY A REGISTERED NURSE ANESTHETIST

"(bb)(1) The term 'anesthesia services and related care provided by a registered nurse anesthetist' means those services provided by a registered nurse anesthetist (as defined in paragraph (2)) which such nurse anesthetist is legally authorized to perform as such by the State in which such services are performed.

"(2) The term 'registered nurse anesthetist' means a registered nurse licensed by the State who meets such education, training, and other requirements relating to anesthesia services and related care as the Secretary may prescribe. In prescribing such requirements the Secretary may use the same requirements as those established by a national organization for the certification of nurse anesthetists.".

(c) Section 1832(a)(2)(B) of such Act is amended by striking out "and" at the end of clause (i), by striking out "; and" at the end of clause (ii) and inserting ", and", and by adding at the end thereof the following new clause:

"(iii) anesthesia services and related care provided by a registered nurse anesthetist; and".

(d)(1) Section 1833(a)(1) of such Act is amended by striking out "and" at the end of subparagraph (E), and by adding at the end thereof the following: "(G) in the case of anesthesia services and related care provided pursuant to section 1861(s)(11), the amounts paid shall be 80 percent of the reasonable charge for such services established by the Secretary in accordance with subsection (l);".

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

"(l)(1) With respect to anesthesia services and related care provided pursuant to section 1861(s)(11), the reasonable charge shall be an amount determined by the Secretary to be consistent with efficient and high quality anesthesia services, taking into ac-

count the prevailing rate for such services, but modified to the extent necessary to comply with the requirements of paragraph (2).

"(2) In establishing the reasonable charge for anesthesia services and related care provided pursuant to section 1861(s)(11), the Secretary shall adjust such reasonable charge to the extent necessary to ensure that the total amount which will be paid under this title for such services in any fiscal year (as estimated by the Secretary) will not exceed the total amount which would be paid under this title for such services in such fiscal year if such services were included as inpatient hospital services and payment for such services was made under part A in the same manner as payment was made in the fiscal year ending on September 30, 1986, adjusted to take into account changes in prices and technology relating to the administration of anesthesia.".

(e) Section 1861(b)(4) of such Act is amended by inserting before the semicolon the following: ", and anesthesia and related care provided by a registered nurse anesthetist".

(f)(1) Section 1886(a)(4) of such Act is amended by striking out ", costs of anesthesia services provided by a certified registered nurse anesthetist".

(2) Section 1886(d)(5) of such Act is amended by striking out subparagraph (E).

(g)(1) Section 1862(a)(14) of such Act is amended by inserting before the period at the end thereof the following: ", or are anesthesia services and related care provided by a registered nurse anesthetist".

(2) Section 1866(a)(1)(H) of such Act is amended by inserting ", and other than anesthesia services and related care provided by a registered nurse anesthetist" after "1862(a)(14)".

Sec. 2. The amendments made by this Act shall apply to items and services furnished on or after Janury 1, 1987.

Sec. 3. Nothing in this Act or the amendments made by this Act shall contravene provisions of State laws relating to the practice of medicine or nursing or State law requirements regarding the administration of anesthesia and its medical direction or supervision.

By Mr. CHAFEE:

S. 1155. A bill to authorize the disposal of silver from the national stockpile; to the Committee on Armed Services.

SILVER STOCKPILE REFORM ACT

● Mr. CHAFEE. Mr. President, I am today introducing a bill which would authorize the General Services Administration to dispose of 10 million troy ounces of the silver now held in the national defense stockpile.

The U.S. Government is the largest single holder of silver in the world. In addition to substantial amounts of silver held by the mint and the Defense Department, there are 136.5 million ounces stored in the strategic stockpile. The National Security Council has determined that there is no strategic need to stockpile silver, and every administration since 1974 has declared surplus all or a portion of the silver in the stockpile. One Presidential commission—The National Commission on Supplies and Shortages—found no need to stockpile any silver.

The silver currently held in the strategic stockpile is costly to maintain and, as the last four administrations have determined, serves no useful purpose. The Federal Emergency Management Agency's latest report to Congress, issued last month, declares the entire supply of stockpile silver as excess. Valued at the average price for last year, this silver is worth $1.1 billion. If sold by GSA at current market prices, the sale of the stockpile silver would result in a $687,500 profit for the Government.

Some have argued that a sale of the entire 136.5 million ounces would effectively "dump" an unnecessarily large amount of silver on the market and depress the silver-producing industry. This may be true, which is why this bill proposes disposal of only 10 million ounces, a relatively small sale that would serve as a test method for disposing of the remainder of the surplus silver.

Mr. President, the impetus for this measure comes from the Defense Authorization Act of 1985, which officially declared 10 million ounces of silver as excess to the requirements of the stockpile. The sale of this excess silver would solve a problem currently facing the Department of Defense: According to the FEMA report, there is a shortage of many other materials considered important to the stockpile. Disposal of 10 million ounces of silver would provide funds for the purchase of these materials, which include aluminum, cobalt, copper and zinc. Thus, this bill would not only bring revenues to the Government, but would also enhance the strategic preparedness by providing to the defense stockpile materials that FEMA has determined are in short supply.

It is worth noting that the creation of the strategic silver stockpile was simply a by-product of the decision in 1967 to cease minting silver coins. It was not the result of a considered determination that such stocks were essential to the national defense.

Before 1967, the United States consumed vast amounts of silver for coinage purposes. In 1965, for example, this country used 320 million ounces for coinage. From 1961 to 1965 more than 700 million ounces were used in the same way. Clearly, there was at one time a need for large amounts of silver to be stockpiled for national purposes, but this is no longer the case. The great bulk of the current stockpile was transferred from the Treasury to the stockpile as a result of the 1967 act. There is no strategic purpose served by this huge hoard of silver, and should a strategic need for silver ever arise, vast amounts of silver are held by the Government in stores other than the stockpile and by private citizens. In any case, 10 million ounces is only a fraction of the stockpile amount, and its disposal can only serve the national interest; that is, it would test one orderly way of ridding the Government of this costly, unnecessary burden.

The United States has depended on substantial amounts of imported silver to meet its industrial needs. In 1982, net imports were 92 million ounces or $736 million. Imports account for a large percentage of U.S. consumption. Obviously, it would serve the national interest to begin disposing of the stockpile silver in an orderly fashion and thereby reduce our dependence on imports.

Rather than let this supply of silver simply lie fallow and soak up the taxpayers' dollars, let us allow the market to put it to good use. Industry sources predict a rise in the future demand for silver, which probably will have to be met through imports unless we move to dispose of excess Government supplies. The stockpile silver costs $20 million yearly to maintain, and lost opportunity costs amount to more than $225,000 per day, or more than $80 million per year. My legislation would allow us to begin replacing the silver in the stockpile with the materials FEMA has determined to be in short supply. It would also free up for commercial use surplus silver that has needlessly remained in storage for too long.

I hope my colleagues will join in supporting this legislation. 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. 1155

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 "Silver Stockpile Reform Act of 1985".

Sec. 2. The President is hereby authorized to dispose of 10 million troy ounces of silver currently held in the National Defense Stockpile established by section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h). Any disposal under the authority of this Act shall be carried out in accordance with the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).●

By Mr. DENTON:

S. 1156. A bill to amend chapter XIV of the Comprehensive Crime Control Act of 1984, relating to victims of crime, to provide funds to encourage States to implement protective reforms regarding the investigation and adjudication of child abuse cases which minimize the additional trauma to the child victim and improve the chances of successful criminal prosecution or legal action; to the Committee on the Judiciary.

CHILD VICTIM WITNESS PROTECTION ACT

Mr. DENTON. Mr. President, I rise today to introduce the "Child Victim Witness Protection Act of 1985." The

bill would amend chapter XIV of the Comprehensive Crime Control Act of 1984 as it relates to victims of crime, by providing funds to encourage the States to implement protective reforms for the investigation and adjudication of child abuse cases. Those reforms should minimize the additional trauma to the child victim and improve the chances of successful criminal prosecution or legal action.

Mr. President, the issue of child abuse has exploded into public view during the past several years. One need only to read the newspapers or to watch television news to realize that child abuse is a problem of immense proportions. The National Center for Missing and Exploited Children projects that, on a national basis, one out of three minor girls and one out of every seven minor boys will be sexually abused. Reports from the Children's Trust Fund of Montgomery, AL, indicate that 28,407 young Alabamians were abused in 1984.

Children who have been abused or sexually molested have suffered an extreme trauma. Often, however, the abused children suffer additional trauma from the justice system and other community agencies because of insensitive investigative and adjudicative procedures.

A most disturbing example of an insensitive procedure is the practice in some jurisdictions of repeated interrogation on the child victim. In many cases, the abused child is subjected to countless grueling and detailed investigative interviews. Not only do duplicative and insensitive interview procedures lead to greater trauma to the child victims and his or her family, but they frequently result in less effective intervention and prosecution. Rather than providing the child victim with necessary respect, understanding and compassion, the procedures reduce the child victim to an automaton, caught in the adult drama of the courtroom.

Mr. President, as the U.S. Supreme Court noted in the famous case of New York against Ferber, "the prevention of sexual exploitation and abuse of children constitutes a Government objective of surpassing importance." It is with that objective in mind that I introduce the "Child Victim Witness Protection Act of 1985." By encouraging the States to implement protective reforms for the investigation and adjudication of child abuse cases to minimize the additional trauma to the child victim and improve the chances of successful criminal prosecution or legal action, we will meet the objective of preventing sexual exploitation and abuse of children, or at least preclude additional trauma for the child victim.

The bill is based on recommendations from the September 1984 Final Report of the Attorney General's Task Force on Family Violence, and on the October 1982 report from the National Legal Resource Center for Child Advocacy and Protection of the American Bar Association entitled "Recommendations for Improving Legal Intervention in Intrafamily Child Sexual Abuse Cases." Under the proposed legislation, the level of the Crime Victim's Fund would be increased by $10 million to allow the Attorney General to provide modest Federal financial assistance to the States to implement programs and procedures established by previously enacted statutes which minimize additional trauma to the child victim and improve the chances of successful criminal prosecution or lgeal action.

The "Child Victim Witness Protection Act" will not impose any additional burden on the taxpayer. As a part of the Crime Victim's fund, the "Child Victim Witness Protection Act" would be financed from first, fines collected by the Federal Government, second, penalty assessments levied upon convicted Federal dependants, third, forfeited bail bonds and collateral in Federal criminal cases, and fourth, certain profits made by criminals from publishing their misdeeds in literary, visual, and audio productions. In other words, the bill would impose a type of "users' fee" on criminals in order to protect child abuse victims.

Under the bill the Attorney General would allot to each eligible State $200,000 plus an amount that bears the same ratio to the remainder as the population in the State bears to the population in all eligible States. To assist the States in meeting the eligibility requirements, the bill sets, forth suggested guidelines for statutes to minimize additional trauma to the child victim and improve to the chances of successful criminal prosecution or legal action.

Mr. President, I believe that the "Child Victim Witness Protection Act" would allow the special needs of physically and sexually abused children to be addressed effectively. I would encourage my colleagues to support it.

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. 1156

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

SHORT TITLE

SECTION. 1. This Act may be cited as the "Child Victim Witness Protection Act of 1985".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds and declares that—

(1) child abuse may result in serious and severe physical and psychological trauma to the child victim;

(2) in the investigation and adjudication of child abuse cases, the child victim may be subjected to such demanding procedures as repeated interrogation and direct intense confrontation with the offender which may be tantamount to a second victimization;

(3) some evidentiary procedures, such as the hearsay rule, in effect require the child victim to testify in court, thereby forcing the child to relive in a public setting and in the presence of the offender the episode of exploitation or abuse;

(4) various legal reforms such as coordinated legal proceedings, videotaped depositions, and closed-circuit television have been introduced in a number of States and offer protection to the child victim from additional trauma resulting from the investigation and adjudication of the child abuse case;

(5) in enacting the Victims of Crime Act of 1984, chapter XIV of title II of Public Law 98-473, the Congress mandated that priority be given to eligible crime victim assistance programs which provide assistance to victims of child abuse;

(6) in defining the term "services to victims of crime" the Congress expressly included "assistance in participating in criminal justice proceedings"; and

(7) while this language was designed to provide assistance to individual victims of crime, there is a great need for broad-based intervention at the State and local levels through legal reforms and procedures specifically to address the needs of victims of child abuse.

(b) The Congress declares that the purpose of this Act is to provide funds to encourage States to implement protective reforms regarding the investigation and adjudication of child abuse cases which minimize the additional trauma to the child and improve the chances of successful criminal prosecution or legal action.

ESTABLISHMENT OF FUND

SEC. 3. Chapter XIV of the Comprehensive Crime Control Act of 1984 (title II, Public Law 98-473), relating to victims of crime, is amended by adding between section 1404 and section 1405 the following new section:

"CHILD VICTIM WITNESS PROTECTION GRANT

"SEC. 1404A. (a) The Attorney General is authorized to make additional annual grants and other payments from the Crime Victims Fund under section 1402 to the States for the protection of victims of child abuse in accordance with the eligibility requirements of this section.

"(b)(1) A State is eligible for assistance under this section if the Attorney General determines that the State has enacted statutes with respect to the investigation and adjudication of child abuse cases which—

"(A) minimize the additional trauma to the child victims; and

"(B) improve the chances of successful criminal prosecution or legal action.

Any assistance received by the State under this section shall be used to implement the programs and procedures established by the statutes enacted pursuant to this section.

"(2) From the amounts in the fund, the Attorney General shall allot to each State meeting the eligibility requirements of paragraph (1)—

"(A) $200,000, plus,

"(B) an amount which bears the same ratio to such remainder as the population in the State bears to the population in all States meeting the eligibility requirements of paragraph (1).

"(c)(1) For purposes of subsection (b)(1)(A), procedures to minimize additional trauma to the child victim may include—

"(A) establishing interdisciplinary teams of child abuse professionals such as law enforcement officers, child protective service workers, prosecutors, child advocates, mental health professionals, family counselors, and medical personnel for handling child abuse cases;

"(B) coordination of civil and criminal court proceedings involving intrafamilial child abuse;

"(C) providing for special units and training relating to child development, legal issues, and the dynamics of child abuse for law enforcement, legal, judicial, child welfare, family counseling, and mental health personnel to deal with the child victim;

"(D) providing for a support person to the child victim prior to and during the course of any legal or administrative proceeding to protect the interests of that child; or

"(E) granting courts the authority to enter protective orders to protect the child victim from additional abuse.

"(2) For purposes of subsection (b)(1)(B), reforms designed to improve the chances of successful criminal prosecution or legal action in child abuse cases may include—

"(A) establishing a specific definition of child sexual abuse;

"(B) extending the statute of limitations in criminal cases of child abuse;

"(C) modifying certain rules of evidence to allow for the admission of the child victim's hearsay statement of abuse, to permit leading questions to be asked of the child victim, to permit the use of anatomically correct dolls and drawings to describe the abuse, and to establish a presumption that children are competent to testify; or

"(D) establishing procedures for the videotaping of the child victim's statement and testimony or the use of closed-circuit television to protect the child victim from additional trauma.

"(3) Each State is encouraged to develop innovative approaches not described in paragraphs (1) and (2) to achieve the objectives of minimizing the additional trauma to the child victim and improving the chances of successful criminal prosecution or legal action in child abuse cases.

"(d) As soon as practicable after the date of enactment of this section, the Attorney General shall issue such regulations as may be necessary to implement this section. In establishing regulations, the Attorney General shall consider the purposes of this section.

"(e) The Attorney General is hereby authorized to use up to $10,000,000 from the Crime Victim's Fund each fiscal year for the purposes of this title.".

INCREASE IN CRIME VICTIM'S FUND LEVEL

SEC. 4. (a) Subsection (c)(1) of section 1402 of the Victims of Crime Act of 1984 is amended by striking out "the sum of $100 million" and inserting in lieu thereof "the sum of $110,000,000".

(b) Paragraph (2) of subsection (2) of section 1402 is amended to read as follows:

"(2) Of the total deposited in the Fund during a particular fiscal year—

"(A) out of the first $100,000,000 deposited in the Fund, fifty percent shall be available for grants under section 1403 and fifty percent shall be available for grants under section 1404; and

"(B) any amounts deposited in the Fund in excess of $100,000,000 but not exceeding $110,000,000 shall be available for grants under section 1404A.".

By Mr. McCLURE (by request):

S. 1157. A bill to authorize the Secretary of the Interior to perform studies relating to disposal of drain water and to construct interim corrective measures deemed necessary for the San Luis interceptor drain; to the Committee on Energy and Natural Resources.

SAN LUIS INTERCEPTOR DRAIN

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to authorize the Secretary of the Interior to perform studies relating to disposal of drain water and to construct interim corrective measures deemed necessary for the San Luis interceptor drain.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill, and the executive communication which accompanied the proposal from the Assistant Secretary be printed in the RECORD.

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

S. 1157

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

SEC. 1. That there is authorized to be appropriated to the Secretary of the Interior for studies and interim corrective measures relating to distribution and drainage and to the disposal of drainage water in the west side of San Joaquin Valley of the Central Valley Project up to $12,600,000 for fiscal year 1986.

SEC. 2. The Secretary shall use his best efforts to obtain repayment contracts pursuant to section 9(d) of the Reclamation Project Act of August 4, 1939 (53 Stat. 1195) with respect to the expenditure of any funds authorized to be appropriated by this Act, said contracts to be with those water districts which benefit from such expenditure and to provide for the repayment of such funds within a period, not to exceed 50 years, determined by the Secretary. Any funds expended which are not made the subject of a repayment contract within 2 years of expenditure shall be added to the costs of the construction of works of the San Luis Unit, Central Valley Project, California or the Central Valley Project as a whole allocated to irrigation and shall be repaid pursuant to section 9(e) of 1939 Act.

SEC. 3. The Secretary is authorized to receive additional funds from non-Federal entities to assist in the studies and/or construction authorized pursuant to this Act.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, April 24, 1985.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is enclosed a draft bill "To authorize the Secretary of the Interior to perform studies relating to disposal of drain water and to construct interim corrective measures deemed necessary for interceptor drains for the San Luis Unit, Central Valley Project."

We recommend that the draft bill be introduced, referred to the appropriate committee for consideration, and enacted.

The Central Valley Project, California is a large multibillion dollar, multipurpose project that has been under construction since the early 1940's. The San Luis Unit, authorized in 1960, is about 25 percent of the overall project, and it has an estimated total Federal obligation of $1.2 billion. Based on dollars it is slightly less than one half complete although many features are in operation. It is now common knowledge that the west side of the San Joaquin Valley has serious drainage and salt management problems which are having negative impacts on the area's waterfowl and farm production. In addition, the irrigation drainage disposal issue has created both a public health and environmental concern which requires both immediate and long term actions.

An intradepartmental effort is continuing to develop and evaluate economically viable and environmentally sound alternative solutions. Resources from the Bureau of Reclamation, U.S. Geological Survey and the U.S. Fish and Wildlife Service have been mobilized to analyze both the source and origin of trace elements and the loading of mineral contaminants in the drainage effluent, and to define safe levels and treatment technologies necessary to protect human health and fish and wildlife resources. In addition, studies are needed to develop alternative long-term methods for environmentally sound disposal of contaminants and to address the long term problems of their disposal.

It was originally believed that sufficient funds could be appropriated pursuant to Public Law 95-46, as amended, to finance all studies to analyze the contaminant problem in the subsurface drainage effluent, develop alternative solutions, and to implement any required interim corrective action. Further study has revealed that the magnitude of the requisite studies and the possible alternative interim corrective measures will require funds in excess of those available under the authorization. The magnitude of the problem and its resolution are estimated to be significantly in excess of the funds that can be appropriated under the authorization of Public Law 95-46.

The Department recognizes the need for additional funding in FY 1986 and beyond to continue the studies as well as implementation of appropriate corrective measures. The FY 1986 budget request includes $12.6 million for continuing the studies and for related activities. The first section of the draft bill would provide this authority to continue these studies.

We would like to make it clear that the draft bill may be only the first part of a larger package. Through these authorized studies we will be able to identify the most economical and environmentally effective method to address the entire issue. Additional authority will be needed for a permanent solution at Kesterson. We will submit legislation at a future date for such authorization.

The Office of Management and Budget has advised that there is no objection to the submission of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

ROBERT N. BROADBENT,
Assistant Secretary.●

By Mr. DOLE (for himself, Mr. DURENBERGER, and Mr. BENTSEN):

S. 1158. A bill to amend title XVIII of the Social Security Act with respect to Medicare payments for direct costs

of approved educational activities; to the Committee on Finance.

MEDICARE PAYMENTS FOR DIRECT COSTS OF APPROVED EDUCATIONAL ACTIVITIES

Mr. DOLE. Mr. President, today I am joined by my distinguished colleagues, Senators DURENBERGER and BENTSEN, in introducing a bill that reaffirms the Medicare Program's commitment to the education of this Nation's health care professionals but imposes important fiscal restraints that are in line with our effort to reduce the Federal deficit and enhance the stability of the Hospital Insurance Trust Fund. We welcome comments and suggestions on the bill we have introduced.

MEDICARE'S ROLE IN GRADUATE MEDICAL EDUCATION

Let me note at the outset that our commitment to graduate medical education support has proven to be a valuable investment. More than 1,300 hospitals presently offer teaching programs that train physicians, nurses, and other allied health care personnel. Of these, by far the largest investment on behalf of the Medicare Program has been made in the area of the residency training of physicians, which includes support for 3 to 7 years of postgraduate study after the completion of medical school. In 1984, approximately 75,000 residents were trained in 4,800 approved residency training programs. As a result, Medicare's financial contribution to graduate medical education is considerable. In fiscal year 1985, subsidies for direct medical education costs for resident training alone will likely total approximately $925 million. The total amount spent for all the professions covered, including physicians, nurses, and allied health care personnel, will be in the area of $1.3 billion.

OPEN-ENDED SUBSIDIES

It has long been recognized that the presence of teaching programs in our hospitals has a direct and positive impact on quality of care. Medicare's support of graduate medical education has played a significant role in sustaining high levels of quality of care for Medicare beneficiaries. I firmly believe that our Nation's teaching hospitals are in large part the guardians of the high standards we demand from our health care system. It is for this reason, I am willing to continue our support.

However, open-ended funding of graduate medical education cannot continue. Medicare currently provides a cost-based "passthrough" to teaching hospitals to support their so-called direct teaching costs. Medicare also provides a substantial adjustment to each DRG payment to cover factors including indirect teaching costs that are not directly identifiable, but presumably result from the presence of a teaching program in the institution. Historically, Medicare has not made any requirements on this training in return for the funding it has provided. There have been no restraints on the length of the programs, numbers, or types of residents to be trained. However, the current Federal budget deficit and pressures to reduce expenditures by the Medicare Hospital Insurance Trust Fund necessitate some reductions or constraint. It is our hope that this can be done in an orderly and thoughtful manner.

My colleagues from Minnesota and Texas join me in putting before you a plan that we believe to be both fair and timely. We have endeavoured to impose fiscal restraint without causing undue and potentially harmful disruption in graduate medical education. In addition, we have identified some important areas of inquiry that must be pursued so that we can intelligently evaluate what our appropriate role should be with respect to expenditures for these purposes over the long term.

SUMMARY OF BILL

Our bill consists of four major provisions:

First, we provide for a freeze on Medicare payments for direct medical education for 1 year. The 1-year freeze, in addition to providing short term savings, will also provide sufficient time for hospitals to plan for the changes we propose for subsequent years. We have tried to accommodate the fact that institutions have different accounting periods and that the freeze should really be based on the most current information available.

Second, beginning with fiscal year 1987, a limit will be placed on the number of years of a residency program we will help finance. The limit will be the lesser of the formal training required—as detailed in the 1985-86 directory of residency training programs published by the Accreditation Council on Graduate Medical Education—for initial board eligibility, or 5 years.

This 5-year limitation covers the board eligibility requirements for the primary care specialties and general surgery in full. This particular 5-year or board eligibility requirement restriction remains in effect for a period of 3 years. After that time, we provide for a reevaluation of the training period to be financed, recognizing that the academic medical community and specialty organizations may well find reason to alter the requirements.

Third, beginning with fiscal year 1987, we will no longer share in the costs of training for those non-U.S. citizens who are graduates of foreign medical schools. Graduates of foreign medical schools currently participate in U.S. graduate medical education programs and, as a result, have a portion of their residency funded by Medicare. This group consists of both U.S. citizens who attended foreign medical schools [USFMG's] and those that are non-U.S. citizens or alien foreign medical graduates [AFMG's]. It does not appear to continue to make sense to use Medicare Trust Fund dollars to underwrite AFMG training. If, in fact, this Nation believes we should continue to assist in the training of foreign physicians, whose homelands count on their return to care for their countrymen, such funding might more appropriately come from nonpatient care revenue sources.

Fourth, we have directed the Department of Health and Human Services to conduct studies to improve our understanding of educational activities relating to nursing and other health professions to determine the types and numbers of such programs and to describe the fiscal and administrative relationships between hospitals and the schools with which the programs and students are affiliated.

We have also directed the General Accounting Office to conduct a second study that would examine the difference between costs in teaching and nonteaching hospitals. This study would take into account differences in severity of illness levels, area wage levels, and differences in physician reasonable charges, as well as other factors that might affect patient comparability.

BROAD RANGE OF ISSUES

As was recently outlined in a document prepared by the Congressional Research Service, there are a broad range of important issues that must be addressed about the effects which Medicare payment policies for health professions have on patient care, on the supply and distribution of physicians and other health professionals, on the institutions providing such education, and on the costs of the program. Similar questions need to be addressed in considering any changes in current Medicare and Medicaid policies. One of the most critical will certainly be issues related to physician reimbursement.

The physician reimbursement methods adopted by various third-party payers and the costs for physician services are intertwined with issues related to health professions education in hospitals. The patient care services that residents provide in the course of their graduate medical education to some degree substitute for the services of physicians and the hospital staff. How much does a hospital save by having relatively low-cost residents providing these services? Do the residents thus help pay for their graduate medical education? Would it be more costly to the hospital—and ultimately to the third-party payer—if someone other than a resident were performing the services? For example, if hospitals were to reduce the size of their teaching programs in response to reductions in payment under Medicare's prospec-

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tive payment system, would costs increase under part B of the Medicare Program as physicians began billing for the services formerly provided by residents?

Another issue concerning payment for graduate medical education in hospitals is whether the whole variety of payments for physician services to hospital inpatients needs to be examined, including payments for physicians employed by the hospital, for attending physicians who bill separately for their services, for the teaching services provided by the physicians, and for the services of residents in training.

The other major area of interest will, of course, be the present Medicare indirect teaching adjustment. While this bill only addresses direct medical education expenses, it is also our intention to pursue changes with respect to the indirect teaching adjustment.

CONCLUSION

I believe this bill represents a major step forward in our ongoing commitment to both medical education and the Medicare Program. It is certain to encourage a continuing debate that must utlimately benefit those who depend on the present and future availability of high quality health care services. I thank Senator DURENBERGER and Senator BENTSEN and their able staffs, Chip Kahn, Kerry Kilpatrick, and Marina Weiss, for their assistance in the preparation of this bill. In particular, I would like to compliment Senator DURENBERGER, the distinguished chairman of the Finance Committee's Health Subcommittee. Senator DURENBERGER introduced one of the first major pieces of legislation to address this subject and has forced us all to consider carefully what ought to be done in the future. I look forward to our continued collaboration as we explore other aspects of the Medicare Program and graduate medical education.

Mr. President, 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. 1158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1861(v)(1) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(P) Payments relating to the direct costs of approved educational activities at hospitals shall be made in accordance with the regulations in effect on January 1, 1985, except as follows:

"(i) For a hospital's first cost accounting period which begins on or after July 1, 1985 (the freeze accounting period), the amount of such costs recognized as reasonable by the Secretary shall not exceed the amount so recognized with respect to such hospital for such hospital's most recent cost accounting period ending prior to July 1, 1985 (the base accounting period), disregarding any salary or wage increases, and any cost center shifting or reallocation, implemented after May 1, 1985. If a hospital's cost accounting periods do not begin on July 1, the Secretary shall increase the limit established under the preceding sentence by an appropriate factor to reflect general increases in the costs of approved educational activities which took place between the end of the hospital's base accounting period and the beginning of its freeze accounting period, disregarding any increases in salaries or wages after May 1, 1985.

"(ii) Effective on and after July 1, 1986, the Secretary shall not recognize as reasonable any such costs incurred with respect to any intern or resident-in-training for years in training which exceed the lesser of—

"(I) five years, or

"(II) the minimum number of years of formal training necessary to satisfy the requirements (as specified in the 1985-1986 Directory of Residency Training Programs published by the Accreditation Council on Graduate Medical Education) for initial board eligibility in the particular specialty for which such intern or resident-in-training is preparing, or, after July 1, 1989, in the event that the required number of years in training increases, the number of years which the Secretary may specify, after consultation with the Accreditation Council on Graduate Medical Education.

"(iii) Effective on and after July 1, 1986, the Secretary shall not recognize as reasonable any such costs incurred with respect to any intern or resident-in-training who is neither a graduate of an accredited school of medicine (or accredited school of osteopathy, dentistry, or podiatry) located in the United States or Canada nor a citizen of the United States or Canada.".

(b)(1) The Secretary of Health and Human Services shall conduct a study with respect to approved educational activities relating to nursing and other health professions for which reimbursement is made to hospitals under title XVIII of the Social Security Act. The study shall address—

(A) the types and numbers of such programs, and number of students supported or trained under each program;

(B) the fiscal and administrative relationships between the hospitals involved and the schools with which the programs and students are affiliated; and

(C) the types and amounts of expenses of such programs for which reimbursement is made, and the financial and other contributions which accrue to the hospital as a consequence of having such programs.

(2) The Secretary shall report the results of the study to the Congress prior to December 31, 1986.

(c)(1) The Comptroller General shall conduct a study of the difference between the amounts of payments made under title XVIII of the Social Security Act with respect to inpatients in teaching hospital settings and the amounts of such payments which are made with respect to comparable patients who are treated in a nonteaching hospital settings. Such study shall identify the components of such payments (including payments with respect to inpatient hospital services, physicians' services, and capital costs, and, in the case of teaching hospital patients, payments with respect to direct and indirect teaching costs) and shall account, to the extent feasible, for any differences between the amounts of the payment components in teaching and nonteaching settings.

(2) In carrying out such study, the Comptroller General may utilize a sample of teaching hospital patients and any other data sources which he deems appropriate, and shall, to the extent feasible, control for differences in severity of illiness levels, area wage levels, levels of physician reasonable charges for like services and procedures, and for other factors which could affect the comparability of patients and of payments between teaching and nonteaching settings. The information obtained in the study shall be coordinated with the information obtained in conducting the study of teaching physicians' services under section 2307(c) of the Deficit Reduction Act of 1984.

(3) The Comptroller General shall report the results of the study to the Congress prior to December 31, 1986.

Mr. DURENBERGER. Mr. President, I am pleased to join my colleagues the distinguished majority leader, Mr. DOLE, and the distinguished Senator from Texas, Mr. BENTSEN, in introducing S. 1158, a bill to reform Medicare payment for clinical training.

Since, its inception in 1965, Medicare has reimbursed hospitals for its share of the direct educational costs. The direct education costs recognized as reimbursable are defined as the salaries and fringe benefits for residents, and interns and nurses and other health professions in hospital training programs. The allocated costs of conference and classroom space within the hospital, as well as additional supervision, administrative and equipment costs are also paid.

Medicare support for this activity has been deemed appropriate in the past because:

First, the physicians, nurses, and health professionals in these programs provide service to Medicare patients.

Second, virtually all other payers had traditionally been willing to pay their share of these education costs.

Third, it was felt that these educational activities enhanced the quality of care in hospitals, and

Fourth, in the 1960's and early 1970's, the view was widely held that there existed a shortage of quality trained physicians, nurses, and other health professionals.

But times have changed since 1965. The Nation now faces a growing surplus of physicians, estimated to reach 35,000 by 1990 by conservative projections. At the same time there are 73,000 residents in the training pipeline. Many of these are training in specialties already in oversupply.

The medical schools in this country have acted responsibly to reduce their class sizes to bring their outputs more in line with the requirements for physicians. In 1984 the medical schools in the U.S. reduced their class sizes to 16,997, down 323 students from the enrollment in 1981. The University of Minnesota Medical School has reduced

its class size from 239 in 1981 to 223 in 1984 and plans to continue to reduce class size until it reaches 200 in 1987. On the other hand, the number of foreign medical school graduates seeking residency training in this country has increased three fold since 1981. In 1984, over 10,000 foreign medical graduates participated in the match for placement in U.S. hospital resident positions.

The system needs better control and management. This is why my colleagues and I have joined together to not only reaffirm but to reform Medicare's role in subsidizing the direct costs of clinical training in hospitals. The bill we introduce today continues the Medicare commitment to funding clinical training in hospitals from the Medicare trust fund. It begins a process of defining more explicitly the direct expense Medicare will reimburse. S. 1158 would freeze all payments for the direct costs of approved educational activities for fiscal year 1986 at the level of the costs obtaining in the hospitals for their accounting period ending prior to July 1, 1985. However, if the hospitals accounting period does not begin on July 1, the limit may be increased by a factor to reflect the general cost increases that occurred during the freeze period.

After July 1, 1986, the number of years that will be recognized as reasonable for Medicare payments for graduate medical education would be constrained to the lesser of first, 5 years or two, the number of years of formal residency training required for initial board eligibility in the particular specialty for which a resident is preparing.

The bill, for example, would continue Medicare funding for its share of 3 years of training for family practice, general internal medicine, general pediatrics, and emergency medicine. Four years of funding would be provided for such specialties as radiology, psychiatry, and pathology. Five years of support would be provided for general surgery.

The number of years under which payment is allowable for each specialty will remain fixed until 1988. At that point if speciality boards determine that changes in practice and technology require more years of speciality training, the Secretary of Health and Human Services may extend the years of Medicare payment—but not beyond 5 years for any specialty.

These restrictions are especially appropriate in the case of surgical subspecialties and medicine and pediatric fellowship programs which include a specified time for organized research rather than patient services. These research activities are important to the development of clinical investigators and academic physicians, but it was not the purpose of Medicare to fund nonservice-related research activities.

The reform my colleagues and I propose would not dictate specific requirements for the distribution of training programs to hospitals and affiliated medical schools. It would provide financial constraint, instead, which would require them to be much more sensitive to the economics of the training decisions they made for their institutions. The combination of these financial signals and market forces should lead to more constraint in institutional training policies, particularly as regards the number of subspecialty slots made available.

The contraction of subspecialty slots likely to result should shift emphasis more to primary care training. In this way, more physicians in training will choose to end their graduate medical training at the still needed first-contact specialties. This should contribute both to cost containment and increased access generally. It is good Medicare policy and good physician manpower policy to produce more first-contact physicians.

Further, under the bill, Medicare would only contribute to the residency training of persons who are graduates of accredited schools in the United States or Canada or who are citizens of the United States or Canada. We need to do a better job of specifying who we will support for clinical training with Medicare funds. With the phyisician surplus and the fact that the number of residency positions for U.S. citizens are becoming in short supply, it is inappropriate to spend Medicare patient service dollars on the training of 6,000 alien foreign medical graduates. As many as 90 percent of these residents do not return to their home countries so residency training for most FMG's is not a matter of foreign policy. The Aliens who train here frequently plan to stay and ultimately also contribute to this Nation's over supply of physicians.

Finally, the bill requires that two studies be conducted to provide information for further reforms. The Secretary of Health and Human Services is instructed to conduct a study of the approved programs for nursing and other health professions currently receiving funding for direct Medicare costs incurred in hospitals. Information on the types of health professionals trained in these programs, the number of such trainees, the costs incurred and reimbursed, and the contributions of the trainees to patient care is so sparce it is not now possible to make informed Medicare policy with respect to nonphysician hospital training. The study should fill this void.

The bill also instructs the Comptroller General to conduct a study to determine the difference between Medicare costs paid for services for patients in teaching hospitals and for patients with comparable conditions treated in nonteaching hospitals. The study will examine elements as inpatient hospital services, physicians' services, capital costs and, for teaching hospitals, payments made for direct and indirect costs of clinical training.

The study would be based on a sample of hospital patient data and other sources which controls statistically for differences in case severity, area wage levels, differences in physician reasonable charges and other factors that might affect patient comparability. The study is to be coordinated with ongoing studies being conducted through the Department of Health and Human Services to avoid duplication of effort.

The reforms in the bill are partially driven by budget pressures. The freeze on direct medical education payments projected for fiscal year 1986 reflects this notion. However, even more importantly, the bill will help focus attention on the basic problems facing the hospital training of physicians, nurses, and other health professionals in this country.

A year ago, in a speech at the annual meeting of the Council of Teaching Hospitals, I highlighted the effect that the evolution toward consumer choice in health care is having on teaching hospitals. As the health care marketplace becomes increasingly price competitive, the hospitals which have clinical training programs are finding that they are less able to pass on in patient service dollars the costs of such "societal contributions" as graduate medical education, unsponsored research and technology development, standby tertiary care resources, and even care for the uninsured poor.

These competitive pressures are having a positive effect on the management of health care services. The system is becoming more efficient. But, the cross-subsidies are also becoming exposed and vulnerable.

I can see this happening in the Twin Cities in my home State of Minnesota. The pressures of health plan competition are having a profound effect on the University of Minnesota Hospital. I have been told, for example, the hospital is having to negotiate for business with physician groups and HMO's at prices frequently below amounts the institution received for the same services in a cost-based reimbursement environment. The volume these agreements provide will be helpful but clearly a teaching institution will have to change its commitments and structure in this kind of environment without outside subsidy. The HMO's and other purchasers are just not willing any more to pay for the costs incurred in a teaching hospital which do not directly benefit their sick subscribers, and price competition will mean that teaching hospitals will not be able to incorporate these costs in their prices.

Some will argue, I am sure, that the Twin Cities' health care market is an anomaly. This may have been true 5 years ago, but it is not today. I have been traveling all over this country, and I have seen competition between providers and health plans sprouting up in every major city. The medical school deans, hospital administrators, and physicians I talk to give me the sense that teaching hospitals, even the foremost in the Nation, are beginning to feel the stress of price competition.

In this context last October, I introduced S. 3073, "Medicare Clinical Training Amendments of 1984." This proposal was designed to make a number of points. It used Medicare as a vehicle to begin a payment reform for clinical training in hospitals. The bill would have placed a lid on Medicare's contribution to training. Thus, it made the statement that with a pending physicians surplus and Federal budget crisis, Medicare should fund the service provided by residents and nurses, and other health professionals in training, but that the open-ended funding of such programs would not continue.

The proposal used a block grant to the States as a means to allocate the capped Medicare funding. This approach argued for a better rationalization of training financing, better to meet true manpower needs. And, it provides explicit recognition of the role the States will have to assume in financing clinical training in teaching hospitals in the new health care market environment.

Clearly, teaching hospitals are public resources which are national, regional, State, and local in nature. Most of the residents trained in Chicago or New York go elsewhere to practice. Nevertheless, it is the communities of Chicago, New York, Boston, and the other major teaching enclaves which gain the most from having the teaching institutions.

The health services industry is the third largest employer—after retail and wholesale trades—in Chicago, New York, and Boston. In these three cities alone a total of over 500,000 people are employed in health care. The dominant health care institutions in these cities are the large teaching hospitals.

These same institutions also provide the lion's share of the health services to the poor in the cities. These teaching hospitals enhance the cities' quality of life and stature by providing a broad range of tertiary care services and by engaging in biomedical research. When considered in these terms, State and local governments need to realize it is in their best interest and the interest of their communities to see the academic medical centers sustained.

Currently, Medicare pays about 30 percent of the direct costs of clinical training through its patient services dollars. S. 3073, as well as the bill I am introducing today with my colleagues, affirms Medicare's commitment to pay for its share of these direct costs. Most of the other 70 percent comes from the payment of hospitals billing non-Medicare patients. As the non-Medicare purchasers begin to negotiate with hospitals based on prices which do not include the subsidies such as clinical training, State and local governments will find it necessary to set explicit policies and probably subsidize at least part of these activities.

I believe S. 3073 served its purposes well. It touched off a nationwide debate on the future financing of clinical training.

The discussion by institutions and professional organizations led to task forces, committees, special studies, and forums and colloquies to study this broad and complex issue. The need to move deliberately in formulating approaches to the problem has been widely recognized, but the varied interest of the institution and medical disciplines has made consensus difficult to reach. The contributions to this process of such bodies as the Commonwealth Task Force on Academic Health Centers, the Committee on Financing Graduate Medical Education of the Association of American Medical Colleges, the Association of Academic Health Centers, the American Medical Association and a host of other organizations has been exceedingly valuable.

As I have explored the complex problems surrounding clinical training in hospitals personally and in my capacity as chairman of the Finance Committee's Health Subcommittee, I have learned a great deal. I discuss what I have learned and the principles which underlie my approach to these issues in an article published in Business and Health in April 1985. Mr. President, I ask that the article be printed in the RECORD following my remarks.

The proposal we are introducing today builds upon the principles present in this article. It keeps the momentum for reform moving ahead. At the same time, it preserves the basic structure of the Medicare financing mechanisms that have supported a share of the graduate education process in the past. I view this present proposal as a step in the right direction. It forms a solid foundation for the future reforms and it achieves budgetary savings in a manner which is fair and moderate. Though, I should point out, it only begins a process of developing more comprehensive policy for financing clinical training in an emerging competitive environment.

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

WHO, HOW AND WHEN TO PAY FOR PHYSICIANS' TRAINING

(By David F. Durenberger)

During the last decade, all aspects of the medical profession have been the subject of intensive inquiry. Because physicians directly or indirectly affect 70 percent of all health care expenditures, the focus of public interest and professional introspection has been on the forces influencing physicians' decisions in the consumption of health care resources. With health care costs continuing to grow at a rate of $70,000 every minute, the structure of medical practice, the financing of health care and the consequences of the physician training system all are being closely examined.

LESS WISDOM, CHARACTER

Studies by the Josiah Macy Jr. Foundation, the Institute of Medicine, and the Association of American Medical Colleges have called for sweeping changes in medical education programs in terms of the knowledge base, skills and attitudes physicians of the future will need to possess. Harvard University President Derek Bok notes that, in the beginning years of medical education, students spend a large percentage of their time passively sitting through basic scientists' lectures that bear "little relation to the patient care that attracted most * * * students to medical school in the first place." Bok observes that even the clinical exposure that occurs in the last two years of medical school often is loosely organized and taught by residents with only slightly more experience than the medical students. This forces students to act as passive observers, and provides insufficient opportunity to hone information gathering and diagnostic skills.

Likewise, in an address to the advisory board of Duke University Hospital, internist and cardiologist Don Warren observed that the physicians emerging from the medical education system in this country are "coming out with more facts and less understanding, more knowledge and less maturity with which to handle the knowledge, more education as measured by hours of courses and less wisdom." Warren is concerned that the selection and training of medical students and residents places too much emphasis on intellect and too little on character and compassion.

Whether it comes from educators, physicians or patients, the message is the same. Whatever changes are made in the structure and process of medical education, their potential effects must be evaluated not only in terms of costs and access to care but also in their ultimate impact on the character of the physician-patient relationship.

THE MEDICAL EDUCATION CONTINUUM

Medical education can be viewed as a continuum that begins when a college student chooses a premedical curriculum, with its heavy emphasis on required math and science courses, continues through graduation from college and another four years of medical school, and ends after the completion of a residency.

The four years of medical school ending with graduation and a Doctor of Medicine (M.D.) degree are referred to as undergraduate medical education. During these years, students pay tuition and fees as with any other graduate program.

Graduate medical education is the formal training of a physician that occurs after receiving an M.D. degree. This training takes place under the auspices of a residency program (so called because the student typical-

ly is a resident of the hospital in which the training occurs). The term intern in reference to general postgraduate training has fallen into disuse. Interns and residents now are referred to by year of post-M.D., such as "PMD-1," "PMD-5" and so forth.

Postgraduate training differs markedly from undergraduate medical education. Very little graduate medical education time is spent in classroom, laboratory instruction or research. The resident physician spends the majority of his or her time delivering services under the supervision of an experienced attending physician, much like apprenticeship training in other professions.

The salary of the resident physician is a routine business expense and is absorbed in the pricing structure of the hospital, like in any other firm. For their services residents receive annual stipends, which increase with their seniority, and nearly 70 percent of which are paid for out of the patient care revenues of their hospital employers.

Residency programs range from three to seven years in duration. The primary care specialties (family practice, general internal medicine, pediatrics and emergency medicine) require three years. The surgical specialties generally require four or five years. Neurosurgery takes six years and thoracic surgery, seven.

In 1983 these stipends ranged from $20,800 for the first-year post-M.D. to $27,867 for the sixth year. There were 72,397 residents in training in the U.S. that year, so their total compensation (including fringes) was nearly $2 billion (see chart). When these other allocated cost and indirect costs are added, it has been estimated that the total cost of graduate medical education exceeds $4 billion annually.

PAYING FOR GRADUATE TRAINING

Historically, the inclusion of the costs of graduate medical education in patient charges has been an accepted practice. Today, however, in an era which the health care market is becoming increasingly price sensitive, subsidizing the cost of this training by raising the bills of sick people is becoming less acceptable to insurers, and the businesses and individuals who ultimately pay.

One side effect of a competitive, consumer choice model of health care delivery is to force providers to recognize and deal with the cost-subsidies in their prices. Thus, unless the extra costs for clinical education, technological innovation and uncompensated care incurred by teaching hospitals are explicitly accounted and paid for, these tertiary care institutions simply cannot hope to compete on price.

Further, at a time of mounting federal deficits and budget cuts and freezes, Medicare support of graduate medical education needs to be reassessed.

Under cost based reimbursement, Medicare used to pay a proportionate share of the net educational costs including allocated hospital expenses and supervision costs as determined by retrospective cost reporting.

Established in 1983, Medicare's diagnosis related group (DRG) based prospective payment system maintains special treatment of clinical education costs by paying for direct costs on a reasonable costs basis. Further, an indirect adjustment was preserved as a multiplier added to the DRG rate and increased to 11.59 percent to recognize the higher case severity, expensive medical technology and costlier practice patterns of residents in many teaching hospitals.

There are only three ways to reduce total Medicare costs to the U.S. Treasury: cut back benefits; increase beneficiary cost sharing; or decrease payments to providers. Graduate medical education support is publicly perceived as an upper- and middle-class subsidy. Before going to the elderly and disabled and asking them to accept reduced benefits, fairness requires that medical education take its share of the budget reductions.

Assuming current services, by 1986 the direct and indirect costs of clinical education supported by Medicare will approach $3 billion. President Reagan's budget proposal for 1986 freezes the direct payments at the 1985 level for an anticipated savings of $150 million and cuts the indirect add-on percentage in half—to 5.79 percent—for an expected savings of $695 million. This approach is problematic for a couple of reasons.

First, capping the direct payments does not resolve the potential for undesirable consequences of the present method of support such as the geographic and specialty maldistribution of training positions.

Second, the President's budget rationale fails to address congressional intent in increasing the indirect payment adjustment. The President only recognizes the increased costs in teaching hospital due to the practice styles of interns and residents. Congress intended that the indirect adjustment also compensate for the greater case severity and intensity in teaching hospitals. Until a better means of adjusting the DRG rate for case severity is found, the use of a multiplier to the resident-to-bed ratio as a proxy for severity must be maintained at a reasonable level. To be effective, legislation changing the way Medicare pays for clinical training will have to be more imaginative than a cut in or freeze of the current system.

The evidence also is inescapable that the present system of financing graduate medical education primarily by open-ended support through patient care revenues has encouraged the production of too many specialists. They are trained to deliver a brand of high-technology medical care that can perform medical miracles but is ill-equipped to handle the routine illnesses faced by a majority of patients.

If Americans are going to rely on payroll taxes to support the training of physicians who will, on average, earn four to five times the income of the wage earners paying the taxes, then a graduate medical education financing mechanism will have to be developed that encourages the training of the numbers and types of physicians needed at the lowest possible cost to the taxpayers.

There is a direct relationship between a physician's time spent in training and his or her subsequent income. For example, a family practitioner who spent three years in residency training had a medium income of $76,200 in 1983, whereas a thoracic surgeon, with seven years residency training, earned a median income of $163,580. For graduate medical education, the real rates of return on the investment including foregone income range from 9 percent for pediatrics to 22 percent for anesthesiology, according to health economist Frank Sloan of Vanderbilt University.

For these reasons, I introduced the Medicare Clinical Training Amendments of 1984 last October. This legislation, which has stimulated much thoughtful discussion of the graduate medical education issue, contained two important principles. First, it placed a cap on direct Medicare expenditures for this training. Second, it encouraged states through a federal sharing formula to increase their support of clinical training. While it is true that, to an extent, the production of health professionals is a national resource, states also reap enormous benefits from both the existence of the teaching hospitals and the professionals trained in them. In places like Boston and Chicago, medical education is a major industry. The Ohio legislature decided to have seven state supported medical schools not because of a shortage of physicians, but because the schools provide opportunities for the state's students to pursue medical education and act as magnets for federal funds and the medical technology industry.

CONSEQUENCES OF A PHYSICIAN SURPLUS

In its May 1984 Report to the President and Congress, the U.S. Health and Human Services Department's (HHS) Bureau of Health Professions, employing a model based on utilization of health services, predicted an aggregate surplus of 35,300 physicians in 1990 and a surplus of 51,800 in 2000. These estimates are considerably below the 1980 projections of the Graduate Medical Education National Advisory Committee (GMENAC) for a 70,000 physician surplus in 1990 and a 145,000 surplus in 2000. While estimates of the precise magnitude differ, there is no longer much debate over the likelihood of a growing physician surplus. Moreover, there is general agreement on the specialties in which the surpluses are occurring—all surgical specialties, most subspecialties in internal medicine and obstetrics and gynecology.

There also are still too many physicians in large urban areas and too few in rural and inner-city regions. California, Texas and New York comprise about one-fourth of the U.S. population but have nearly one-third of the physicians. Approximately 90 percent of all physicians are located in metropolitan statistical areas. The physicians who locate in the rural areas are much more likely to be general and family practitioners. Rand Corporation studies have shown there is some diffusion of specialty physicians to rural areas occurring as the number of specialists in cities increases. But the dominant pattern will continue to be one of a high physician-to-population ratio in the urban areas.

For most products, a surplus of supply leads to falling prices and producer incomes. But for physician services this has not proven to be the case. Fueled by a health insurance system that has made purchasers largely insensitive to cost, the demand for medical care has continued to outstrip the availability of services. In some markets, physicians also have been able to enhance their effective utilization by increasing service intensity as an offset to decreased patient volume due to keener competition. San Francisco provides one example of a market area in which medical incomes have been maintained in spite of a growing concentration of physicians in the bay area.

This phenomenon is reflected in national data as well. Between 1975 and 1983, the supply of physicians increased by nearly one-third, while the total costs of physician services increased almost three-fold to almost $70 billion. Part of that dollar increase was due to an increase in fees by two-thirds over 1975 levels, but the remainder was the result of increases in volume and intensity of services. Physicians did more during each patient visit. This partly relates to a perceived need to practice defensive medicine in today's malpractice climate. In response to increased pressure on visit volume, physicians also are doing more

office based testing, including laboratory screens, pulmonary function testing and even computer tomographic scans, to increase profitability.

The concentration of medical specialists in a given geographic area also encourages more resource intense practice styles. Janet Mitchell, president of the Center for Health Economics Research in Chestnut Hill, Mass., found in a recent study that attending physicians in New Jersey ordered consultations from specialists two to three times more often than their counterparts in North Carolina. New Jersey physicians also used assistant surgeons more frequently and had a greater number of paid visits per hospitalization. It seems unlikely that these physicians were treating sicker patients or providing higher quality care. The explanation for such large differences in practice style probably has more to do with the fact that New Jersey has 30 percent more physicians per person than North Carolina.

PATIENTS BENEFIT, BUT AT A COST

Some of the consequences of the increased supply of physicians have been positive from the patient's perspective. With an increased diffusion of board certified specialists to rural areas, many small towns now are enjoying their services for the first time.

Patients are reaping other benefits of the physician surplus. Surveys have shown visits to physicians' offices have fallen by 20 percent in the last eight years. Research conducted by John Drabek of the HHS Bureau of Health Professions shows that patients spend less time waiting for appointments and more time with physicians during visits. Physicians are keeping evening and weekend office hours and some are making house calls again. Thus, except for lowering prices, the growing supply of physicians under the fee-for-service system is bringing a number of benefits to the consumer.

The increased supply of physicians also may be a factor in the rapidly changing style of medical practice with more and more physicians choosing to practice in health maintenance organizations (HMOs), single and multispecialty groups. Group practice is becoming the dominant choice of young physicians completing residencies. While physicians who join groups gain in such advantages as regular working hours and a ready-made patient pool, they have had to give up income.

In the Twin Cities, some HMOs are offering starting salaries as low as $36,000 to physicians just completing their residencies. By way of comparison, *Medical Economics* reports that the median income for all physicians in their first five years of practice was $82,690 in 1983. One large HMO in the Washington, D.C. area reports it has 10 to 15 qualified applicants for every opening and it has never advertised for physicians.

Prepaid group practice arrangements will further exacerbate the problems associated with a physician surplus because HMOs use far fewer physicians, especially specialists, per capita than fee-for-service arrangements. The growth of HMOs and other prepaid plans has been phenomenal and is expected to continue. From June 1983 to June 1984, enrollment grew at an annual rate of 21 percent. While there may be some beneficial selection occurring, if the ratio of about 100 physicians per 100,000 population achieved by the nation's largest HMOs were applied to the entire country, by 1990 there would be a surplus of 240,000 physicians or 80 percent more than are required.

The nonprice benefits to patients notwithstanding, the fact remains that as the number of physicians grows, the pressures on fee-for-service physicians to enhance income by increasing the volume of unnecessary return office visits, tests and procedures, and surgery will intensify. Thus, the structure of the medical education process must account for the new requirements of the prepaid medical care system.

TEACHING HOSPITALS STRUGGLE

Meanwhile, HMOs and other alternative health care delivery systems, along with employers and consumers, are placing the squeeze on teaching hospitals. Faced with mounting costs of health care benefit packages, employers are increasing coinsurance and deductibles. This trend is likely to accelerate if Congress caps employer paid health benefits. As more of the costs of care are borne by individuals, physicians and their patients will avoid the expensive teaching hospitals, creating additional problems with financing graduate medical education through patient revenues.

There also is a growing concern about equity and fairness of the health care system across the country. This is particularly relevant in the high cost states that have locked in the support for graduate medical education and uncompensated care in their all-payer rate systems under Medicare waivers. It is unfair for these subsidies to be maintained in the states having Medicare waivers when competitive pressures are prohibiting such cross-subsidization in other states. Instead, explicit, uniform policies should be adopted to fund separately the costs of physician training and uncompensated care.

However, from a cost accounting perspective, graduate medical education payment methods are troublesome. The multiple outputs and societal benefits produced in connection with these teaching programs make explicit accounting for the use of the funds from the direct payments to teaching hospitals very difficult. Nonetheless, some members of Congress have grown weary with the longstanding argument that residents produce joint products (patient care, education and research) that are inseparable. Therefore, to pay for one product is to pay for them all. If the health care industry cannot find a way to account accurately for the specific costs of these joint products, Congress may be forced to do it arbitrarily, to separate out the patient care component Medicare originally was designed to pay for.

There are further problems in determining what the indirect payments to teaching hospitals really buy. These hospitals provide more than their proportionate share of uncompensated care, treat more severely ill patients and develop many new clinical technologies. A better job must be done of differentiating between these sources of higher-than-average costs in teaching hospitals and the costs of the graduate medical education function, and developing a means of paying for the former that do not depend on a count of interns and residents as a proxy for other societal contributions.

TOWARD A NEW FUNDING STRATEGY

Reform of the current method of paying for graduate medical education through Medicare should stop the open-ended support of as many residents as the traffic will bear for whatever program duration medical specialty groups desire. It should address the distributional questions of the number, types and locations of residency positions. It should pay principally for primary care since the first three years of residency training equip the physician for independent practice; advanced specialization would not be covered in hospital payments. As this approach does not address the problems of uncompensated care, the development of new medical technologies and the case mix severity issue, additional legislation will be required to deal adequately with these problems. This is a tall order and will not be accomplished all at once.

Likewise, whatever approach is taken to graduate medical education financing under Medicare makes sense for the other payers too. In today's climate, no one will pay for a service for which the benefits are not clear and direct. Changes made in graduate medical education funding have to be both fair and efficient. The following approach, as outlined, will bring that goal closer.

A determination first must be made as to what should be funded under the rubric of graduate medical education. Medicare expenditures should benefit Medicare patients. And, if this fund is to be only for direct and allocated costs of graduate medical education, then mechanisms must be found to account for and fund each of these societal contributions, separately, on its own merits.

Second, it must be determined prospectively just how much should be spent on physician training. There are two parts to this problem. One deals with the requirement for an explicit identification of the volume of graduate medical education output it is reasonable to support with Medicare dollars. In addition, the impact of changes in graduate medical education funding levels on the institutions in which the programs are housed must be considered.

There is no question that teaching hospitals represent an essential community resource that should be preserved. No community will want to forego the special care provided by neonatal intensive care, burn and trauma units. Teaching hospitals also provide a greater proportional share of uncompensated care. Any change in funding mechanisms must be sensitive to these conditions. But we cannot afford to continue to provide a blank check to the teaching hospitals for these functions in this time of fiscal restraint.

Third, it needs to be determined where the support for graduate medical education should be directed. If the current system provides incentives for the proliferation of too many subspecialists in already crowded fields, consideration should be given to changing the reimbursement system to produce more primary care physicians. Paying only for the first three years of graduate medical education would be one approach to achieving this goal. Training in community hospitals and ambulatory care environments should be encouraged. The Mayo Clinic in Rochester, Minn., operates a graduate medical education program acknowledged to be one of the finest in the world, and it produces a practice style that is much less expensive than those in univeristy based teaching hospitals. Savings are achieved not by paying lower stipends but through emphasis on the efficient use of diagnostic tests and ancillary services.

Fourth, the appropriate source of funding for graduate medical education needs to be specified. The 1982 Advisory Council on Social Security recommended searching for another source of funding for the training of prospective health Professionals than Medicare. These sentiments are shared by a

number of members of Congress. Other sources that have been mentioned include: taxes on employer and employee contributions to health insurance premiums or health plan premiums; a tax on physician fees; or general revenue taxes.

As alternative sources of funding are considered, the effects on funding stability and distribution of the burden must be evaluated carefully. While there are some problems with financing graduate medical education from the Medicare trust fund, they are not as great as those that would arise from the vagaries of annual appropriations from some other source.

Fifth, it should be made explicit about whose medical training is being funded. Medicare dollars, in part, support the graduate medical training of more than 6,000 alien graduates of foreign medical schools. Given the physician surplus, it does not make much sense to use Medicare funds to subsidize the education of foreign physicians.

Finally, consideration must be given to how best to distribute funds to education programs. One alternative would be to fund programs through special project grants competitively awarded and administered from a central agency. Alternatively, funds could be made available directly to a resident through a voucher mechanism. Available funding might be limited in duration and targeted at specialties determined to be in short supply. Another choice would be to maintain the current system of funding the training institution, which would be the least disruptive approach. With this latter approach, the indirect funding would be allocated to the institutions as it is now but with a smaller permissible count of residents.

The system of graduate medical education in this country is producing the finest physicians in the world. A way must be found to do the job less extravagantly without harming it. The issue of funding graduate medical education cannot be avoided simply because it is inherently complicated. This current Congress intends to pursue this issue vigorously through hearings and new legislative initiatives.

Mr. BENTSEN. Mr. President, I am pleased to join my distinguished colleagues from Kansas and Minnesota in introducing S. 1158, a bill to amend the direct medical education [GME] provisions of the Medicare Program.

Several features of this bill deserve special mention as do the circumstances surrounding its genesis. I am especially gratified that we were able to come to agreement that no policy changes in GME be implemented until a full year after introduction of the bill. It is our intent to ensure that no institution or affiliated hospital suffer damage to its teaching program because of an unreasonable requirement that changes be immediately incorporated into a budget or class year. In short, we are committed to reasonable and timely notice to ensure a smooth transition.

Second, I should like to stress the fairness of this approach with respect to the so-called freeze of domestic programs. As most of our colleagues are aware, the administration proposed a freeze in direct medical education founding for the full 3-year budget horizon, with no indication that such a policy would be revoked after 1988. Further, that freeze included a rollback to 1983-84 funding levels—a net reduction in support of medical training. The bill we are introducing today includes a 1-year freeze based on 1984-85 expenditures, a policy far more fair and budgetarily sound in that it acknowledges the desirability of continued Federal support of medical education. For teaching institutions in growth areas of the United States, this reaffirmation of support should be especially welcome, for without Federal assistance, a number of programs would be curtailed just as they are beginning to reach their full potential. Failure to continue such support would be devastating to States such as Texas where the ratio of physicians to population is significantly below the national average, where 52 counties have been designated medically underserved, and 11 counties have no physicians at all.

Third, for almost all residents, this bill ensures that Medicare will bear its fair share of responsibility for providing financial assistance during training for practice in their chosen field of medicine. Unlike many proposals, S. 1158 does not attempt to control manpower decisions by limiting support to the years needed to qualify for only a handful of specialties. We are mindful that the residents themselves are perhaps the most competent judges of how best their talents may be applied. Therefore, we have consciously chosen to set the outside limit on Medicare financing at 5 years, the period now needed to qualify for board certification in one of the most lengthy specialties—surgery.

Perhaps the most controversial component of this bill involves termination of financial support to those residents who are of foreign nationality and who trained outside the United States or Canada. It would be a grave error to conclude that the exclusion of FFMG's from direct medical education funding was an easy decision. Extensive analysis of demographic data and many hours of arduous discussion brought us to the recommendation embodied in the bill. While sound arguments can be made on both sides of this difficult issue, I am forced to conclude that in a time of budgetary restraint and significant pressure on the trust funds, it makes little policy sense to expend Medicare dollars to train physicians who come to this country to learn a profession they expect to practice, not on Medicare participants or other U.S. patients, but in their countries. I recognize current law has served as a form of foreign policy, and I am well aware that some institutions have come to rely on this pool of residents for staffing. Accordingly, I would encourage those who testify before the Congress on the various provisions of this bill to offer suggestions about alternative funding approaches—perhaps a requirement that the foreign student's government share in the cost of his or her education; coupled with a special funding adjustment for public and other not-for-profit hospitals that provide a disporportionate share of charity care.

I want to take this opportunity to commend my colleagues, Senators DOLE and DURENBERGER, and their exceptional staffs on the care they have taken in developing this legislation. Evidence of that tempered approach can be seen in the two studies commissioned by the bill.

In the Health and Human Services directed study, training programs for nurses and allied health personnel will be evaluated. The results of that review will, in turn, serve as a guide to clarify the Federal role in continuing support of training programs.

Further, because there remain many unanswered questions about the so-called "indirect" teaching adjustment and its appropriate funding level, the General Accounting Office is directed to conduct a study of expenditures at teaching and nonteaching facilities. When the Congress is ready to proceed with what could be a major policy change regarding Federal support keyed to the special missions of teaching institutions, this information will be invaluable.

Though I am pleased to be an original cosponsor of the pending bill, I am not yet satisfied that the question of funding graduate fellowships has been properly addressed, particularly as it relates to internal medicine residencies. The failure to clarify supervising physician/attending physician responsibilities for purposes of billing also leaves a major financial question unresolved. Furthermore, I continue to believe that modifications in direct medical education assistance should be coordinated with proposed changes in the indirect adjustment because of the interactive relationship of these two sources of funding.

Notwithstanding these reservations, my hope is that this legislation will serve as a working document and that it will generate responsible policy and budgetary discussions in the area of medical education. I look forward to working with individuals and organizations with an interest in these issues to ensure continuation of a strong Federal presence in the training of health personnel.

By Mr. ANDREWS (for himself, Mr. GOLDWATER, Mr. MELCHER, Mr. BURDICK, Mr. ABDNOR, Mr. DECONCINI, Mr. BINGAMAN, Mr. BAUCUS, Mr. STEVENS, Mr. HATFIELD, Mr. WEICKER, Mr. NICKLES, Mr. BOREN, and Mr. COCHRAN):

S. 1159. A bill to amend section 8(a) of the Small Business Act to clarify the eligibility of small business concerns owned by Indian tribes; to the Committee on Small Business.

CONCERNING SMALL BUSINESS CONCERNS OWNED BY INDIAN TRIBES

● Mr. ANDREWS. Mr. President, I rise today to introduce a bill that will amend and clarify section 8(a) of the Small Business Act. This amendment will benefit a group in our country, the Native Americans, who have experienced dramatic economic and social improvement because of the 8(a) Program, and who, above all others, are economically and socially disadvantaged due to the Federal Government's failure to provide real economic development opportunities out in Indian country.

Some of you may recall that I introduced similar bills in past Congresses. Due to a number of factors, none of which concerned the intent or language of the bills, they did not make it to the Senate floor for our consideration. I am hopeful that this bill, which is identical to that reported out of the Senate Small Business Committee last Congress, will soon be before us for our favorable consideration.

Although the Small Business Administration has permitted tribally owned business to participate in the 8(a) Program, by administrative practice, this has been done on a very small scale. However, tribal eligibility for the 8(a) Program has never been clear because there is no clear expression of Congress in the Small Business Act or in the legislative history of the 8(a) Program that tribes, as an entity, are eligible. As a result, some Indian tribes have been informed by local SBA offices that they are ineligible for the program, while other local offices state that tribes are eligible. While some of this inconsistency was corrected in October 1982, by an SBA general counsel's opinion affirming the administrative practice allowing tribal participation in 8(a), there are still instances of tribes being denied access to the program, by misinformed local offices.

Therefore, I feel, that once and for all, there should be a clear expression to lay the issue to rest and ensure tribes access to this program.

The tribes participating in the 8(a) program are doing an excellent job. These businesses know the meaning of minority economic development. They employ a good number of people, the majority of whom are tribal members, and are forming the base for the beginning of a stable economy in otherwise economically isolated and disadvantaged areas.

While the concept of tribal ownership of a business is foreign to many of us in Washington, I, personally, know the success that such businesses can achieve. In my home State of North Dakota there are two tribes in the 8(a) Program—both providing a good, solid product to the U.S. Government and incentives and opportunities for their members.

The Devils Lake Sioux Tribe owns the Devils Lake Sioux Manufacturing Corp. in Fort Totten, ND. DLSMC has consistently been honored by the Defense Department for its outstanding work product. But its success is not only in the production line. DLSMC has given its members an opportunity for good, steady employment and the incentive to go off to college to learn business and marketing skills. Many of their college graduates return, now, to the reservation, and work for the company in the management area. Ten years ago, there were no jobs on the reservation for these young, college graduates. As the economy has grown, other small businesses, owned by Indians have sprung up, where before, if there were any businesses they were solely owned and run by non-Indians. DLSMC is a success story and one the tribe is very, and justifiably, proud of.

The Turtle Mountain Band of Chippewa also participate in the 8(a) Program through their Turtle Mountain Manufacturing Co., located in Belcourt, ND. The company currently employs over 130 people, producing cargo trailers for the Department of Defense. Due to its success in the program, the company is anticipating an expansion of the plant and contracts with the private sector. Young tribal members are gearing up their business skills to move into positions with the company, while other members, due to the company's contribution to the local economy, are starting small businesses, such as cafes, in the area. Again, 8(a) has helped an Indian tribe build an enterprise worthy of pride.

I can best sum up the effect of the 8(a) Program on Indian tribes and reservation economy by paraphrasing a tribal elder from one of the 8(a) tribes when he said that the difference between the 8(a) Program and prior Federal economic development programs was that the latter was a "make-work for awhile" program while 8(a) was a "work to make something forever program."

I urge my colleagues to support this bill and support building economies in Indian country.●

By Mr. HART:

S. 1162. A bill to amend the Nuclear Waste Policy Act of 1982 to require the Secretary of Energy to incorporate transportation impacts into the selection process for repositories of high-level radioactive wastes; to the Committee on Environment and Public Works.

NUCLEAR WASTE POLICY IMPROVEMENTS ACT

● Mr. HART. Mr. President, today I am introducing legislation to amend the Nuclear Waste Policy Act of 1982. This legislation will direct the Secretary of the Department of Energy to incorporate in the ongoing waste repository site selection process the impacts associated with the transportation of high-level radioactive nuclear wastes.

With passage of the Nuclear Waste Policy Act in December 1982, Congress for the first time established in law a comprehensive Federal policy for the management of the Nation's commercial high-level radioactive wastes. This was watershed legislation in the development of a national waste management policy and our efforts to address one of the most difficult and troubling aspects of the nuclear age. It addressed many of the issues debated for several Congresses and committed the Nation to a schedule for the development of permanent geologic repositories, granted private utilities primary responsibility for interim storage of wastes, and more clearly defined the roles and authority of both States and Indian tribes in the site selection process.

The act contains mandatory schedules for the selection, siting, and licensing of two separate, permanent repositories for nuclear waste and spent nuclear fuels. Nine locations are now under active consideration by the DOE, including several in the Western States of Utah and Nevada.

In passing the act, Congress left a great many technical questions unresolved. This did not include, however, concern about the costs and risks associated with the transportation of nuclear wastes and spent nuclear fuels. Transportation impacts were clearly not left to DOE discretion. Though the act makes explicit reference to transportation in section 112, indicating Congress' interest in having these impacts evaluated in the site selection process, the DOE has largely ignored this concern. In both its overall guidelines for the selection process and its draft environmental assessments for the nine potential sites, the DOE has given transportation only cursory and passing reference.

For example, the DOE analysis of transportation impacts at the two sites under consideration in Utah has been limited to a 125-mile radius. Regrettably, this study area barely includes the junction at Interstate 70, the major east-west corridor to be used by trucks traveling to and from the site. Further, this limited scope largely excludes all but highway access to the site, and completely excludes both Denver and Salt Lake City, two major urban population centers which will surely be affected by shipments to a potential Western site. Finally, where the DOE has focused on the transportation impacts, it appears to have been more concerned with the costs and impacts associated with heavy traffic

during the construction phase than the shipment of dangerous cargo during the operational phase.

Needless to say, this raises some very serious and troubling issues for every State which will potentially become a corridor for waste shipments. And, given the geographic distribution of the nine sites under construction by the DOE, this issue will hardly be limited to Western States.

Mr. President, it is conservatively estimated that by the turn of the century nearly 120 shipments of radioactive cargo will be transported daily on the Nation's highways and railroads. Undoubtedly, this aspect of the waste management process affects the greatest number of States and localities nationwide. Although only two sites will ultimately be selected, many more States and communities will have to prepare and plan for transportation of wastes through their jurisdictions. It is also this step of the process which poses the greatest risk of accidential spill or release of radioactive materials. Yet this is precisely the area which the DOE has devoted least attention to thus far in the site selection process.

Should the DOE select one of the sites in Utah or Nevada, several States including Colorado, Nebraska, Texas, and Kansas will, by necessity, play host to daily shipments of nuclear waste. In fact, it is estimated that if spent fuel were transported by truck to the Davis Canyon site in Utah, 5,917 shipments annually, or 16 shipments per day, will pass through Colorado alone. Given the special nature of the most likely routes through Colorado, this will have profound implications for the State. Unfortunately, none of these hazards has been adequately considered by the DOE.

A primary east-west route to the potential sites in Utah or Nevada will be Interstate 70, a highway which bisects Colorado and serves hundreds of thousands of commuters daily as it passes through the State's largest metropolitan area. Through much of east Denver this highway is elevated and passes literally over both residential neighborhoods and businesses. During foul weather this portion of I-70 often becomes dangerously icy; and during the daily morning and afternoon rush hours it is routinely clogged with commuter traffic.

West of the city I-70 winds through some of the most dramatic and difficult-to-navigate mountains in the Nation as it rises in elevation and eventually crosses the Continental Divide. In the Rocky Mountains, this highway is known for its steep grades, sharp turns, and unpredictable mountain weather which often reduces visibility to zero. Weather conditions alone closed the highway for more than 300 hours or 12 days in 1984.

This stretch of the Interstate System presents at least two other very special problems. First, all hazardous cargo is prohibited from the Eisenhower Tunnel, forcing trucks to use Loveland Pass—a very narrow, twisting, two-lane State highway which rises in elevation to nearly 12,000 feet. Second, in far western Colorado I-70 parallels the Colorado River along yet another narrow winding stretch. As we all know, this river is the lifeblood for seven Western States and Mexico.

A very good illustration of the problems presented by this stretch of I-70 was recently given by a Colorado State trooper in a Denver newspaper noting that Loveland Pass is hardly an ideal road for dangerous cargoes, and was closed 16 times last winter, once for 9 days. He said,

> My question is, are the drivers prepared to spend nine days in the truck with the radioactive waste, and where are they going to park while they wait out the storms? The prospect of permitting trucks to use the Eisenhower Tunnel is no more comforting. Runaway truck ramps were used 34 times last year. Each time, it took one to two hours to get them off the ramps. Once last year two trucks went off one ramp at the same time. The second entered the ramp at 80 to 90 m.p.h. and collided with the first one. Summit County, where Loveland Pass and the Eisenhower Tunnel are located, has no full-time fire department. Obviously the level of training of volunteer fire departments is not up to the standards necessary to respond to nuclear waste incidents.

Although the chances of a serious accident involving nuclear cargo are somewhat remote, the consequences of such an accident in any of the locations would surely be catastrophic.

Officials throughout Colorado have expressed deep concern about the potential shipment of radioactive cargo on routes near their homes and communities. They are concerned about continued inadequate assessment and planning for shipments associated with the national permanent waste management program. In recent months, more than 10 communities have adopted resolutions restricting or prohibiting these shipments within their city limits. And, in March of this year, the State of Colorado intervened in a suit brought by the State of Washington to require judicial review of the DOE site selection process in order to require consideration of the impacts on corridor States like Colorado.

The residents of these communities and of communities throughout the Nation raise very legitimate concerns. Their resolutions emphasize the need for an expanded assessment program by the DOE, incorporating and evaluating the transportation routes and modes to potential sites. This will assist in determining the risks shipments of nuclear waste to these sites pose to public health, the environment, communities and highways in so-called corridor and adjacent States. This alone can help the DOE, the President, and ultimately the Congress make a much more informed decision on the selection of high-level waste repositories.

The Nuclear Waste Policy Improvements Act I am introducing today will address this issue in several ways: First, it will require the DOE to assess the public health and environmental impacts associated with radioactive waste shipments through the region surrounding all potential sites. Second, it will require the DOE to identify the most likely routes and modes of transport, evaluate the conditions and terrain on such routes, analyze and characterize the mileage traveled and by what types of vehicles, describe significant human activities and population density occurring within 10 miles of such routes, and estimate the cost of upgrading and maintaining such routes in a manner minimizing the risk to public health and the environment. Most important, this legislation will make available to States the additional Federal assistance necessary to upgrade and maintain such routes to ensure protection of public health and the environment in the event of an accident or spill involving high-level nuclear wastes.

Mr. President, the Congress has taken a necessary and important step with passage of the Nuclear Waste Policy Act. I urge my colleagues to join us in modifying this important act to ensure that communities and States affected by the shipments of nuclear waste are incorporated in the site selection process, and the DOE provides assistance necessary to plan for and prevent unexpected and possibly deadly accidents involving radioactive waste transportation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 1162

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 "Nuclear Waste Policy Improvements Act of 1985".

TITLE I

SEC. 101. (a) Section 112 of the Nuclear Waste Policy Act of 1982 (Public Law 97-425) is amended by striking out the period at the end of paragraph (1)(E)(vi) of subsection (b) and inserting in lieu thereof ", including the environmental impact of transporting high-level radioactive waste and spent nuclear fuel through the region surrounding such site.".

SEC. 102. (a) Section 114(a)(1) of the Nuclear Waste Policy Act of 1982 is amended by striking out "and" after "regional distribution of repositories" and inserting ";".

(b) Section 114(a)(1) is further amended by inserting the following after "solidified high-level radioactive waste": ", and the

effect of transportation of high-level waste on States containing possible transportation routes, particularly States that are adjacent to the State in which a high-level waste site is being recommended pursuant to this section".

SEC. 103. Section 114(a)(1) is further amended by inserting the following after subparagraph (D) and relettering subsequent paragraphs accordingly:

"(E) the effect of transportation of high-level nuclear waste on States containing possible transportation routes, including, but not limited to—

"(i) identification of likely routes within each State,

"(ii) the condition of such routes,

"(iii) the terrain on which such transportation routes are located,

"(iv) an estimate of the cost of upgrading and maintaining such routes in a manner that minimizes risk to public health and the environment from transportation accidents or spills,

"(v) an analysis of the vehicle miles traveled (annually and seasonally) on such routes,

"(vi) a characterization of the types of vehicles that utilize such routes, and

"(vii) a description of significant human activities and population density that occur within 10 miles adjacent to such routes."

SEC. 104. Section 114(f) of the Nuclear Waste Policy Act is amended by inserting the following after the fifth sentence of such section: "The Secretary shall take into consideration the routes for the transportation of high-level nuclear waste, and the impact of such transportation on routes that are in States adjacent to the State in which a repository has been selected."

TITLE II

SEC. 201. Section 116(c) (2) (A) of the Nuclear Waste Policy Act of 1982 (Public Law. 97-425) is amended by adding the following at the end of the subparagraph:

"The Secretary shall also provide assistance to any State that contains likely routes for the transportation of high-level nuclear waste to the repository if such State, in its application for assistance pursuant to this paragraph, demonstrates such assistance is needed to upgrade or maintain such routes in a manner that provides adequate protection to the public health and safety from accidents or spills involving high-level nuclear waste."●

By Mr. KENNEDY:

S. 1163. A bill entitled the "Military Family Act of 1985"; to the Committee on Armed Services.

MILITARY FAMILY ACT

● Mr. KENNEDY. Mr. President, I am pleased to introduce the Military Family Act of 1985, a bill to address a number of issues that affect our military personnel and the families. We all know that our service men and women form the backbone of our national security. But the contribution comes not simply from the individual in uniform—but equally from all the members of the family who share the sacrifice that comes with military service. There are 3.7 million Americans who are members of military families and they deserve our recognition and support. The readiness and morale of our troops is critically dependent on the well-being of their family members, an issue which deserves as much attention as any of the more traditional components of military preparedness.

As a member of the Armed Services Committee, I have had the opportunity to visit with our military personnel and their families, both in the United States and abroad. Everywhere I go I find family issues on the top of the agenda—housing, permanent change of station, day care, spouse employment, education for the children—the list goes on and on. For too long these concerns have not received the attention they deserve—and yet they are among the most important factors in recruiting and retaining the skilled, dedicated individuals that our modern military requires.

The legislative package I am introducing today is based on legislation introduced by Representative PATRICIA SCHROEDER who has been a vocal and articulate force in working to meet the needs of the military family. The specific provisions I am offering today are drawn from the bill, H.R. 1681, and have been adopted by the full House Armed Services Committee as part of the Defense authorization bill for fiscal year 1986. I am hopeful that with the support of my Senate colleagues, we will see these provisions enacted into law as a part of the final Defense authorization for this upcoming year.

Mr. President, I ask unanimous consent that a brief summary of the bill appear in the RECORD at this point.

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

SUMMARY

To summarize briefly, the bill contains 11 provisions.

Sec. 101 establishes an Office of Family Policy within the Office of Secretary of Defense, reporting to the Assistant Secretary for Manpower, Installations and Logistics to oversee existing military family programs and make program and policy recommendations.

Sec. 102 would transfer the Military Family Resource Center from the Office of Assistant Secretary for Health Affairs to the Assistant Secretary for Manpower Installations and Legislation.

Sec. 201 would reimburse members of the military for costs associated with travel in privately owned vehicles at the same rate that civilians are reimbursed.

Sec. 202 provides that military personnel and their families will be reimbursed for up to four days of temporary lodging expenses at $110/day.

Sec. 203 permits dependent students who are enrolled in a school within the continental U.S. to a round trip ticket once a year from a point of entry in the U.S. to their parents duty stations if their parents are stationed in Alaska and Hawaii.

Sec. 301 gives spouses preference in hiring for DOD civilian position at grades of GS 8 or above, if they are on the list of best qualified candidates, after veterans preference is satisfied.

Sec. 401 provides that DOD child care facilities on military installation be operated on a 24-hour a day basis when necessary to meet mission requirements.

Sec. 402 provides for a report from DOD on ways to improve employment opportunities for military spouses at child care facilities.

Sec. 501 establishes a youth sponsorship program at all military installations.

Sec. 502 requires DOD to make recommendations to assist children in secondary schools who must transfer with their parents to an area with different graduation requirements.

Sec. 601 establishes a voluntary dental insurance plan for spouses and dependents, with families paying not less that 40%, nor more than 60% of the premium.●

By Mr. HUMPHREY (for himself, Mr. THURMOND, Mr. LAXALT, Mr. SARBANES, Mr. GORTON, Mr. BURDICK, Mr. DECONCINI, Mr. COHEN, Mr. DOMENICI, Mr. MATTINGLY, Mrs. HAWKINS, Mr. ANDREWS, Mr. HATCH, Mr. RUDMAN, Mr. CHAFEE, Mr. DOLE, Mr. PELL, Mr. PROXMIRE, Mr. EXON, Mr. EAST, Mr. MATSUNAGA, Mr. HOLLINGS, Mr. LUGAR, Mr. METZENBAUM, Mr. NUNN, Mr. QUAYLE, Mr. GARN, Mr. BRADLEY, Mr. DENTON, Mr. NICKLES, Mr. HATFIELD, Mr. BOSCHWITZ, Mr. MATHIAS, and Mr. PRESSLER):

S.J. Res. 137. Joint resolution to designate the week of December 15, 1985, through December 21, 1985, as "National Drunk and Drugged Driving Awareness Week"; to the Committee on the Judiciary.

NATIONAL DRUNK AND DRUGGED DRIVING AWARENESS WEEK

● Mr. HUMPHREY. Mr. President, I am pleased to once again introduce a joint resolution designating "National Drunk and Drugged Driving Awareness Week." For the past 3 years, many of my colleagues have joined me in introducing similar joint resolutions. The weeks, which have taken place right before the Christmas and New Year holiday season, have proven enormously successful in increasing public awareness of the dangers of driving while impaired from drugs or alcohol.

Over the past 3 years, hundreds of volunteers throughout the Nation have participated in the programs and activities of National Drunk and Drugged Driving Awareness Week. Activities during the week have included the issuance of parallel proclamations by many Governors, mayors, and local officials; introduction of new drunk driving legislation in various States; the appointment of task forces, and issuance of task force reports; roadblocks and other increased enforcement efforts; candlelight vigils; a "Speak Out for Safety" campaign; and voluntary efforts to provide rides from holiday parties. All of the groups involved in this effort have asked that

once again we designate such a week right before the holidays this year.

Traffic accidents result in more violent deaths each year than any other cause, over 44,000 in 1984. According to the National Highway Traffic Safety Administration, 45 percent of all drivers killed in 1984 were legally drunk and this figure rises to over 60 percent for single vehicle crashes. The cost to society of drunk driving has been estimated to be over $24 billion a year, which does not include the needless pain and suffering caused by drinking and driving.

In addition, we are continuing to hear reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs. Scientists are just beginning to collect data on the concentrations of various drugs in the blood of fatally injured drivers and to conduct studies of the effects of drugs on driving ability.

Of increasing concern is the combination of drugs and alcohol and its impact on the incidence of traffic accidents. Surveys of our young people show that drinking and driving often accompany marijuana use. We have also been made aware that driving after the use of therapeutic drugs, either alone or in combination with alcohol, counter to the advice of physician, pharmacist, or manufacturer, may create safety hazards on the roads. Clearly we need more research to determine the effect of drugs, both alone and in combination with alcohol, on the incidence of traffic accidents and we must alert the public to the risks of combining alcohol and drugs with driving.

In large part due to the volunteer efforts of citizens such as Mothers Against Drunk Drivers [MADD] and Remove Intoxicated Drivers [RID], the public has been demanding changes in the Nation's approach to drunk driving. It is important that we press forward with current efforts to develop new and creative approaches, by combining the expertise of Government, community groups, and voluntary organizations, and bringing the unique talents of each to bear on this devastating national problem.

I believe we should designate 1 week annually as National Drunk and Drugged Driving Awareness Week, to ensure that the momentum does not slip away as society turns its attention to other pressing problems. It is my hope that each year, this week will be marked by radio and TV programs, articles in the print media, and local initiatives such as dial-a-ride, candlelight vigils, and roadblocks, all aimed at increasing the public awareness of the risks of drunk and drugged driving. This will provide an annual opportunity to focus attention on the problem, assess our progress, and address the question of further measures needed. It will guarantee we do not forget the enormous costs in human suffering and dollars caused by the deadly combination of alcohol, drugs and driving.

I urge all my colleagues to join me in sponsoring this Senate joint resolution to designate the week beginning December 15, 1985, as "National Drunk and Drugged Driving Awareness Week."

Mr. President, I ask unanimous consent that the text of the legislation I have introduced today 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. 137

Whereas traffic accidents cause more violent deaths in the United States than any other cause, approximately forty-four thousand in 1984;

Whereas traffic accidents cause thousands of serious injuries in the United States each year;

Whereas more than 60 per centum of drivers killed in single vehicle collisions and 45 per centum of all drivers fatally injured in 1984 had blood alcohol concentrations above the legal limit;

Whereas the United States Surgeon General has reported that life expectancy has risen for every age group over the past seventy-five years except for Americans fifteen to twenty-four years old, whose death rate, the leading cause of which is drunk driving, its higher now than it was twenty years ago;

Whereas the total societal cost of drunk driving has been estimated at over $24,000,000,000 per year, which does not include the human suffering that can never be measured;

Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs;

Whereas driving after the use of therapeutic drugs, either alone or in combination with alcohol, contrary to the advice of physician, pharmacist, or manufacturer, may create a safety hazard on the roads;

Whereas more research is needed on the effect of drugs either alone or in combination with alcohol, on driving ability and the incidence of traffic accidents;

Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increasing necessary research on the effect of drugs on driving ability and the incidence of traffic accidents;

Whereas the public, particularly through the work of citizens groups, is demanding a solution to the problem of drunk and drugged driving;

Whereas the Presidential Commission on Drunk Driving, appointed to heighten public awareness and stimulate the pursuit of solutions, provided vital recommendations for remedies for the problem of drunk driving;

Whereas most States have appointed task forces to examine existing drunk driving programs and make recommendations for a renewed, comprehensive approach, and in many cases their recommendations are leading to enactment of new laws, along with stricter enforcement;

Whereas the best defense against the drunk or drugged driver is the use of safety belts and greater safety belt usage would increase the number of survivors of traffic accidents;

Whereas an increase in the public awareness of the problem of drunk and drugged driving may contribute to a change in society's attitude toward the drunk or drugged driver and help to sustain current efforts to develop comprehensive solutions at the State and local levels;

Whereas the Christmas and New Year holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem;

Whereas designation of National Drunk and Drugged Driving Awareness Week in each of the last three years stimulated many activities and programs by groups in both the private and public sectors aimed at curbing drunk and drugged driving in the high-risk Christmas and New Year holiday period and thereafter;

Whereas the activities and programs during National Drunk and Drugged Driving Awareness Week have heightened the awareness of the American public to the danger of drunk and drugged driving: 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 December 15, 1985, through December 21, 1985, is designated as "National Drunk and Drugged Driving Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate activities.●

● Mr. CHAFEE. Mr. President, I am pleased to join my distinguished colleague, Senator HUMPHREY, in sponsoring the Senate joint resolution to designate the week before the Christmas and New Year's holidays as National Drunk and Drugged Driving Awareness Week.

This joint resolution raises public awareness about the serious problem of drunk and drugged driving which exists in America today. The National Transportation Safety Board's statistics display with horrifying clarity the role of alcohol in auto accident fatalities and injuries. In 1982, there were 38,899 accidents, which killed 43,945 people. Alcohol was involved in 25,000 deaths, nearly 57 percent of the fatalities. This figure is even more disturbing when one considers that many of these alcohol-related fatalities could be prevented.

Drunk or drugged driving is a broad social problem. Federal and State transportation and law enforcement officials have worked diligently in recent years to keep alcohol or drug-impaired people off the road. Continued public education is an essential ingredient in the fight against drunk or drugged driving.

National Drunk and Drugged Driving Awareness Week will establish an intensive campaign aimed at its prevention. Local initiatives, such as dial-a-ride, combined with media attention will increase public awareness of the

problem. Awareness will lead to prevention.

Alcohol and drug abuse are a leading cause of tragedy on our highways today. Congress has the opportunity to take an initiative in preventing such tragedies from occurring. I urge my colleagues to join in supporting this important joint resolution●

ADDITIONAL COSPONSORS

S. 84

At the request of Mr. INOUYE, the names of the Senator from North Carolina [Mr. HELMS], the Senator from Illinois [Mr. SIMON], and the Senator from Kentucky [Mr. FORD] were added as cosponsors of S. 84, a bill to incorporate the Pearl Harbor Survivors Association.

S. 664

At the request of Mr. NICKLES, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 664, a bill to facilitate the competitiveness of exports of U.S. agricultural commodities.

S. 670

At the request of Mr. PELL, the names of the Senator from West Virginia [Mr. BYRD], the Senator from California [Mr. CRANSTON], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 670, a bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, and to give to employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 725

At the request of Mr. CHAFEE, the name of the Senator from Missouri [Mr. EAGLETON] 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. 729

At the request of Mr. DURENBERGER, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 729, a bill to amend the Internal Revenue Code of 1954 to make permanent the rules relating to imputed interest and assumption of loans, and for other purposes.

S. 787

At the request of Mr. NUNN, the names of the Senator from Florida [Mr. CHILES], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 787, a bill to authorize the Secretary of the Army to accept and to operate a National Science Center for Communications and Electronics in order to enhance military training and to share technology development in the communications, electronics, and computer industries, and for other purposes.

S. 873

At the request of Mr. CHAFEE, the name of the Senator from Rhode Island [Mr. PELL] 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. 896

At the request of Mr. SASSER, his name was added as a cosponsor of S. 896, a bill to amend the Internal Revenue Code of 1954 to apply rural electric cooperative plans to the provisions relating to cash or deferred arrangements.

S. 930

At the request of Mr. NICKLES, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 930, a bill to amend the Commodity Credit Corporation charter to exempt all agricultural exports from cargo preference requirements.

S. 1025

At the request of Mr. PRESSLER, the name of the Senator from Georgia [Mr. MATTINGLY] was added as a cosponsor of S. 1025, a bill to require the United States International Trade Commission to investigate and report on the effects of honey imports and to require the President under certain conditions to take action based on such report.

S. 1147

At the request of Mr. HATCH, the name of the Senator from Georgia [Mr. DURENBERGER], the Senator from Iowa [Mr. GRASSLEY], and the Senator from Maine [Mr. MITCHELL] were added as cosponsors of S. 1147, a bill to amend the orphan drug provisions of the Federal Food, Drug, and Cosmetic Act and related laws.

SENATE JOINT RESOLUTION 88

At the request of Mr. LEVIN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of Senate Joint Resolution 88, a joint resolution to designate the week beginning September 8, 1985, as "National Osteopathic Medicine Week."

SENATE JOINT RESOLUTION 92

At the request of Mr. DENTON, the name of the Senator from Vermont [Mr. LEAHY] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 92, a joint resolution to designate October 1985 as "National Foster Grandparents Month."

SENATE JOINT RESOLUTION 108

At the request of Mr. WARNER, the names of the Senator from Ohio (Mr. GLENN) and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of Senate Joint Resolution 108, a joint resolution authorizing the Secretary of Defense to provide to the Soviet Union on a reimbursable basis, equipment and services necessary for an improved United States/Soviet direct communication link for crisis control.

SENATE JOINT RESOLUTION 122

At the request of Mr. BRADLEY, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of Senate Joint Resolution 122, a joint resolution to authorize the President to proclaim the last Friday of April each year as "National Arbor Day."

SENATE JOINT RESOLUTION 126

At the request of Mr. PRESSLER, the name of the Senator from Wisconsin [Mr. PROXMIRE] was added as a cosponsor of Senate Joint Resolution 126, a joint resolution to condemn Bulgarian brutality toward their Turkish minority.

SENATE JOINT RESOLUTION 133

At the request of Mr. DOLE, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of Senate Joint Resolution 133, a joint resolution to designate May 25, 1985, as "National Holstein Day."

SENATE RESOLUTION 148

At the request of Mr. SASSER, his name was added as a cosponsor of Senate Resolution 148, a resolution commemorating the 50th anniversary of the Rural Electrification Administration.

SENATE RESOLUTION 165

At the request of Mr. HEINZ, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of Senate Resolution 165, a resolution to urge the President of the United States and the Secretary of the Treasury to reject any tax reform proposal which would impose a tax on the annual increase in the value of permanent life insurance.

SENATE RESOLUTION 166—REGARDING A SUPERPOWER SUMMIT

Mr. SPECTER submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 166

Whereas relations between the United States and the Union of Soviet Socialist Republics are currently characterized by considerable tension;

Whereas on-going nuclear arms negotiations being conducted by the duly appointed representatives to the respective parleys have not achieved satisfactory results to date;

Whereas a carefully prepared summit could facilitate the accomplishment of the objectives of these negotiations and lead to a reduction in the risk of nuclear war;

Whereas a carefully prepared summit could also lead to progress in resolving

other major issues troubling relations between the two superpowers;

Whereas both President Reagan and Soviet General Secretary Gorbachev have indicated their willingness in principle to participate in such a carefully prepared summit;

Resolved, That it is the sense of the Senate that the President of the United States and the President of the Union of Soviet Socialist Republics should meet at the earliest practical time following thorough preparation to discuss major issues in United States-Soviet relations and to work for the realization of mutual equities and verifiable reductions in nuclear arms.

Mr. SPECTER. Mr. President, I am today submitting a resolution expressing the sense of the Senate that President Reagan and Soviet leader Mikhail Gorbachev should hold a summit meeting as soon as possible.

I have submitted virtually this same resolution three times prior to this, as an amendment to the defense authorization bills in 1982, 1983, and 1984. It has been passed by my colleagues overwhelmingly each time. In 1982 my sense-of-the-Senate resolution calling for a summit passed by a vote of 92 to 6 and in 1983 by a vote of 82 to 7. In 1984, I again offered the resolution as an amendment to the Defense authorization bill. As it happened, my amendment came up very late at night after a long day of debate, and at the request of the majority leader I withdrew my request for a rollcall vote. The amendment passed without objection by a voice vote.

I would like to think our voices have been heard on Pennsylvania Avenue and that we have played some role in the President's invitation to Soviet leader Gorbachev for a summit.

Yet, I feel compelled to offer this resolution once more. Despite each leader's expression of a willingness to meet, conflicting pressures and longstanding distrust have resulted in virtually no progress being made toward such a meeting.

With growing signs that the talks in Geneva may already be approaching a stalemate, it is imperative that these two world leaders meet face to face; not for "marking progress," but to encourage and stimulate progress.

This summit cannot wait for the talks to produce agreement. It must propel the process toward peace.

This is consistent with the two-track approach which President Reagan has long advocated: That we should be strong, knowing the proclivities of the Soviets, but at the same time we should be willing to talk arms reduction.

Mr. President, I think that it is especially appropriate in the constitutional setting for this sense of the Senate resolution to be offered, given the constitutional responsibility and authority in the Senate for advice and consent on treaties.

The SALT II Treaty was never ratified by the U.S. Senate. It seems to this Senator most appropriate for this body to express itself on such an important matter and to lend encouragement to our President and to his Soviet counterpart that the Senate considers such negotiations in arms reduction to be a matter of paramount importance, that this body is interested in having such arms reduction agreements and, obviously depending upon the specifics of any such treaty, would be inclined to consider it favorably if, as, and when the matter came before the Senate for ratification.

An expression of congressional support for a summit is even more timely now than before because the United States has proceeded with the President's strategic modernization programs, including deployment of Pershing and cruise missiles in Europe, production of the B-1 bomber, and further production of the MX missile.

Consequently, the United States can now bargain from a position at least of parity. Indeed, the President has affirmed that he is satisfied with a position of parity and that efforts to achieve superiority are neither necessary nor helpful to arms control.

I believe, Mr. President, that in this day and age, there is no such thing as superiority. In a very real sense, the United States is inferior to the Soviet Union because the Soviet Union has the power to destroy the United States. And similarly, in a very real sense, the Soviet Union is inferior to the United States because the United States could destroy the Soviet Union. And both major powers may be inferior if the likes of Qadhafi or Khomeini ever obtains nuclear arms.

Mr. President, in my judgment there is worldwide fear of nuclear destruction, and there is the corollary of a worldwide wish for nuclear disarmament. In November-December 1983, I personally observed the location of the Pershing II's in West Germany, the location of the cruise missiles in England, and had occasion to talk to West Germans and British where the cruise missiles were deployed. Those missile systems were received by those two nations but in the context of great concern by the citizenry of those nations.

During the course of the past 4 years I have had occasion to have several hundred open house/town meetings throughout my State of Pennsylvania; and have found great concern and fear about the possibility of nuclear destruction, and great wish for nuclear disarmament. Wherever I have traveled in Pennsylvania at these open house/town meetings, there have been concerns about the MX, and a general sense in favor of a mutually verifiable nuclear freeze. There is a real sense in this country today about wanting to have arms reduction talks at the highest level.

It is my view, Mr. President, that the Congress and the Senate have a leadership role to push for such summit. As President Reagan himself has articulated his view of the relationship between the executive and legislative branch, there is a partnership. In seeking this sense-of-the-Senate resolution, I do little more than press for a formal statement by this body on what the President has already said that he finds to be acceptable.

I believe it is important that this body lend its collective voice to encourage our President, and encourage the leader of the Soviet Union, to meet, to have talks on these matters of the utmost urgency, and of the utmost importance.

The sense-of-the-Senate resolution which I am submitting does not lay out any detailed blueprint as to how President Reagan may wish to proceed, or how his Soviet counterpart may wish to proceed in terms of the adequacy of preparation or the nature of an agenda, but simply that there not be preconditions or assurances of success which means that the summit meeting ought not to be delayed until all of the items have been agreed upon by the subordinates and it is merely an event where documents are signed.

Mr. President, there have been relatively few summits during the course of the last 25 years—in 1959, 1961, 1967, 1972, 1973, 1974, in June 1974, November 1977, and June 1979. There has not been a summit meeting since June 1979.

In President Reagan, the United States has a superb negotiator and leader. His signal accomplishments at economic summits in Ottawa, Versailles, Williamsburg, and London and his bold proposals in the areas of nuclear, chemical, and conventional arms demonstrate his potential to achieve a breakthrough on arms control and other vital subjects in a summit with Chairman Gorbachev.

Of course, President Reagan, as an advocate on military strength and anticommunism, has unique credibility with important sectors of American political opinion on reaching an arms control agreement just as President Nixon did on recognizing Red China. With the accumulated knowledge from nearly 5 years of studying and deciding a range of arms control issues, the President also now has the requisite expertise.

Soviet leaders know, however, that, unlike their system of Government, in our country the system of checks and balance involves Congress in critical foreign policy decisions such as funding new weapons and ratifying new treaties. Therefore, there is a great need to demostrate national unity to them on critical issues like holding a summit and negotiating arms control.

In submitting this resolution, my intention is to give the President encouragement from the Senate's renewal of

support for his suggestion for a summit, and I fully expect it will be backed by my colleagues as before.

I am submitting this resolution now so that people can consider it, and I expect to reintroduce it, as in the past, as an amendment to the Department of Defense authorization bill when it comes to the floor.

There is no more important issue facing the world today than the possibility of nuclear destruction, and there is no more vital effort that can be made by the leaders of the United States and the Soviet Union than for the two superpowers to meet and talk about these issues in an effort to achieve arms reduction, and to relieve international tension.

SENATE RESOLUTION 167—ELECTING ERNEST E. GARCIA AS SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

Mr. DOLE submitted the following resolution; which was considered and agreed to:

Resolved, That Ernest E. Garcia, of Kansas, be, and he is hereby, elected Sergeant at Arms and Doorkeeper of the Senate, beginning June 3, 1985.

SENATE RESOLUTION 168—AN ORIGINAL RESOLUTION WAIVING SECTION 303(a) OF THE BUDGET ACT WITH RESPECT TO THE CONSIDERATION OF S. 1160

Mr. GOLDWATER, from the Committee on Armed Services, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 168

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of S. 1160, a bill to authorize appropriations for the military functions of the Department of Defense and to prescribe personnel levels for the Department of Defense for fiscal year 1986, and for other purposes.

Such a waiver is necessary because section 303(a) of the Congressional Budget Act of 1974 provides that it shall not be in order in either House of Representatives or the Senate to consider any bill or resolution (or amendment thereto) which provides new spending authority described in section 401(c)(2)(C) of such Act to become effective during a fiscal year until the first concurrent resolution on the budget for such year has been agreed to pursuant to section 301 of such Act.

For the foregoing reasons, pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of S. 1160.

AMENDMENTS SUBMITTED

ETHNIC AMERICAN DAY

PRESSLER AMENDMENT NO. 146

Mr. DOLE (for Mr. PRESSLER) proposed an amendment to the joint resolution (S.J. Res. 32) to authorize and request the President to designate September 15, 1985, as "Ethnic American Day"; as follows:

On page 2, line 4, strike out "15, 1985" and insert in lieu thereof "21, 1986".

NOTICES OF HEARINGS

SUBCOMMITTEE ON INTERGOVERNMENTAL RELATIONS

Mr. DURENBERGER. Mr. President, I wish to announce that the Senate Subcommittee on Intergovernmental Relations will hold a hearing on S. 765, the Great Lakes Management Act, on Wednesday, May 22, at 2 p.m. in room 342 of the Dirksen Senate Office Building.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on Thursday, May 16, to conduct an executive session to consider pending legislative business.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to meet until 12:30 p.m., during the session of the Senate on Thursday, May 16, to mark up the 1985 farm bill.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, May 16, 1985, in closed executive session, to hold a briefing on intelligence matters.

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

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. DOLE. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, May 16, to hold an oversight hearing on the Department of Energy's report to Congress on emerging clean-coal technologies.

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

ADDITIONAL STATEMENTS

DOD AUTHORIZATION

● Mr. GOLDWATER. Mr. President, late yesterday afternoon the committee completed action on its second markup of the fiscal year 1986 defense authorization bill. In the first markup, which occurred in early April, the committee reduced the administration's defense budget request by approximately $10 billion in budget authority. The amount reported in April represented 3 percent real growth over the defense funding level approved in fiscal year 1985. Yesterday's committee action resulted in a further reduction of $10 billion in budget authority in order to conform the fiscal year 1986 defense funding authorization to amounts approved by the Senate late last week.

In my view, the committee did an excellent job in establishing specific national security priorities and program funding reduction guidelines, and then making program funding reductions consistent with those priorities and guidelines. To the committee's credit, it did not try to artificially dramatize the serious long-term consequences of these budget reductions on our national defense posture by terminating several high-visibility major weapon systems. Cost and performance discipline for these and all other programs continues to be one of my highest priorities as chairman of the Armed Services Committee. I believe it was the committee's view that even those systems which have been controversial do, in fact, meet essential military requirements and contribute importantly to national defense.

It ought to be clear to the American public that our potential adversaries in the world are not standing still and thus our national security cannot be preserved if we are merely willing to stand still. These additional required reductions make this a stand-still budget. If we continue on such a path for the next few years, we will never reach the force level goals that are necessary to ensure our ability to deter and counter aggression and to support our foreign policy objectives.

For those of my colleagues in the Senate and the House of Representatives who have been clamoring for a reduction in defense spending and decrying the procurement practices of the Pentagon which they believe to be wasteful, this bill will test their sincerity. The bill provides $1 billion to be used in conjunction with statutory language authorizing the Secretary of

Defense to close some of the least essential military installations which have remained open largely, in many cases, for political reasons. The upfront costs associated with closing these military installations will, in a very short time, be exceeded substantially by the savings which will result. In addition, this bill proposes to eliminate certain congressionally imposed waste by modifying the Davis-Bacon Act, the Walsh-Healey Act, the Contract Work Hours and Safety Standards Act, and in addition, proposes to remove the congressionally imposed restrictions on the authority of the Secretary of Defense to compete in the private sector certain services required by the Department when the Secretary determines such action would be cost effective and consistent with the interests of national security.

I hope that as the committee takes its bill to the Senate floor, Members will restrain their desire to have their individual authorship on an arms control amendment and recognize that such amendments more often than not impair the ability of our negotiators in Geneva, who are experiencing enough problems getting the Soviet negotiators to bargain in good faith. It has always been a curious phenomena to me, that faced with clear and convincing evidence of existing Soviet treaty violations, certain of my colleagues feel the desire to hold the United States to a stricter standard of compliance than they do the Soviet Union.

Following are the highlights resulting from yesterday's committee markup:

MANPOWER AND PERSONNEL

In manpower and personnel, the committee recommended a reduction of 10,730 active duty personnel from the request. This decision was a result of the substantial congressionally mandated defense budget reductions, coupled with a desire to permit increased manning in combat units as opposed to support forces. The committee agreed to increase the average strengths of the Selected Reserve by 30,272 which amounts to approximately 70 percent of the administration's request. A Defense Department civilian end strength of approximately 1.1 million personnel was approved, also as a result of congressionally mandated budget reductions. This figure represents a freeze on civilian manning levels in those program areas where growth was requested in fiscal year 1986 and a reduction in those functional areas where such a reduction was estimated in the budget.

In addition, the committee agreed to provisions which could lead to a substantial restructuring of the military compensation system. These provisions include a 10-percent reduction in the funding level for the military retirement system along with approval of several hundred million dollars for special and incentive pays and improved permanent change of station allowances. As part of this package, which involves reducing the share of military compensation dollars to be utilized for military retirement so as to provide more compensation to personnel during their careers, the committee approved on across-the-board pay raise of 3 percent for all military personnel to become effective on October 1, 1985. The committee further directed that the Secretary of Defense submit proposed legislation to the Congress, not later than September 1, 1985, which if enacted would alter the military retirement structure in such a manner that the costs of the system could be met under the reduced funding authorized by the committee. The committee specifically directed that the proposed legislation to be submitted by the Secretary of Defense would not apply to any person on active duty or already retired at the time such legislation is enacted.

STRATEGIC AND THEATER NUCLEAR FORCES

In view of the need to satisfy the constraints of a no real growth defense budget, the committee was compelled to reduce funding for strategic programs by an additional $1.3 billion. This amounts to a total reduction of $3.4 billion from the administration's request of $47 billion for strategic programs.

There was no change in the committee's recommendation on the Peacekeeper [MX] Program, with 21 missiles authorized for procurement. The committee also fully funded the small missile program.

Due to budgetary constraints, the committee recommended an authorization of $2.97 billion for the President's strategic defense initiative. This was a reduction of $450 million beyond that recommended at 3 percent real growth, for a total reduction of $750 million from the administration's request.

The committee recommended full funding for the 48 B-1B bombers requested by the administration, and it fully funded the advanced technology bomber and advanced cruise missile programs.

The committee fully funded the Trident II (D-5) missile program, and it recommended the authorization of $1.43 billion for one Trident submarine. This amounts to a reduction of $100 million from the administration's request.

SEA POWER AND FORCE PROJECTION

The committee approved $23.9 billion for sea power and force projection programs, a reduction of $3.3 billion from the administration's request. The committee approved $9.9 billion to procure 21 new ships in the 1986 Navy shipbuilding account. The committee's reductions in the shipbuilding program totaled $1.5 billion and included two MCM-1 class mine countermeasures ships. In the Navy aircraft procurement account, as an economy measure, the committee denied funding for six LAMPS Mark—1 helicopters, an action which would close this production line 1 year earlier than planned. For Air Force airlift, the committee approved the procurement of 12 KC-10A tanker/airlift aircraft and 16 C-5B airlift aircraft. The committee also approved $383.7 million for continued development of the C-17 airlifter, a reduction of $70 million.

MILITARY CONSTRUCTION

The committee authorized $8.8 billion for military construction out of a budget request of $10.3 billion. As in the committee's previous action, $36 million was authorized for the Navy to initiate land acquisition and construction to homeport a battleship group at Staten Island, NY and a carrier battle group at Everett, WA. However, the funds cannot be used until the Navy justifies to the Congress the military necessity and cost effectiveness of homeporting ships at these locations. The committee, due to budget constraints, deferred funds requested by the Army to begin stationing of the 10th Mountain Division at Fort Drum, NY. No funds were denied for troop or family housing as a result of the defense freeze. The committee also authorized $1 billion to be appropriated specifically for base closures along with a statutory provision which would supercede certain existing statutes which have impaired the ability of the Secretary of Defense from closing such bases.

TACTICAL ISSUES

The committee's program funding recommendations will continue the essential modernization of our conventional forces. The committee rejected the past practice of reducing production lines of the more essential weapons programs to inefficient production rates and instead recommended approval of the administration's request for the AH-64 Apache attack helicopter, UH-60 Blackhawk helicopter, Bradley Fighting Vehicle, M-1 Abrams main battle tank, the Navy's A-6E attack aircraft, F/A-18 Strike Fighter, and the Air Force's F-15 and F-16 fighters with only minor funding reductions. The committee recommended approval of the R&D for the JVX tilt-rotor aircraft, now designated the V-22 Osprey, but recommended reductions for the LHX, the Army's proposed family of light helicopters, and the Air Force's Advanced Tactical Fighter [ATF]. The committee also recommended that the Army's Aquila Remotely Piloted Vehicle [RPV] program be restructured at a funding level one half of that requested by the administration.

The committee recommended approval of the administration's request for air-to-air, surface-to-air, and air-to-

surface missiles with the exception of the Air Force's AMRAAM [advanced medium range air-to-air missile] for which the committee recommended approval of only $200 million of the $366.5 million requested by the administration for missile production.

The committee recommended no funds be provided for the Army's field artillery ammunition support vehicle [FAASV], the Army's robotic obstacle breaching assault tank [ROBAT], Navy UC-12B aircraft, Navy T-34C trainer aircraft, Marine M-198 Howitzers, Air Force HH-60 Nighthawk helicopters, and Air Force low level laser guided bomb [LLLGB] kits.

PREPAREDNESS

With regard to preparedness issues, the committee recommended $83.5 billion, approximately $3.5 billion less than requested by the administration in this area.

In going from the original 3 percent markup contained in the committee report to the zero percent growth level, an additional $800 million was reduced from the request. The additional reductions were made in financing adjustments of $200 million; O&M program reductions of nearly $250 million; a reduction of $200 million in the stock fund requests from all services; and almost $100 million in additional procurement reductions.

DEFENSE ACQUISITION POLICY

TITLE VI

Because Members of the Senate have expressed an interest in addressing the issue of defense procurement reform when the authorization bill comes to the Senate floor, the committee has removed the Defense Procurement Improvement Act of 1985 from the legislation. It will be offered as a committee amendment during Senate consideration of the authorization bill.

TITLE VII

The committee agreed to language clarifying the application of civil and criminal penalties levied against contractors submitting consistent unallowable claims. The section relating to the applicability of the Davis-Bacon Act contains codification of Department of Labor regulations on wage computation. The Walsh-Healey provision was modified by the committee to require overtime for hours worked over 40 hours per week, with no reference to daily overtime requirements. Finally, the committee has added language to set specific evaluation for the Secretary of Defense to use in closing or realigning bases, as well as to set restrictions on the authority to use appropriated funds for this purpose.●

NATIONAL TOURISM WEEK 1985

● Mr. SASSER. Mr. President, as cochairman of the Senate tourism caucus, I want to direct attention to National Tourism Week 1985, which begins on Sunday, May 19. National Tourism Week will kick off the great American summer vacation season, a season in which 105 million Americans are expected to make vacation trips this summer.

Instituted last year as a result of a joint resolution unanimously supported by both the House and Senate, National Tourism Week proved to be an enormous success in promoting the importance of travel and tourism—the second largest business in the United States.

So successful was National Tourism Week in 1984, in fact, that the resolution designating a 1985 National Tourism Week became a public law only 3 months after it was introduced simultaneously in both the House and Senate.

"Tourism Works for America" is the theme of this year's National Tourism Week. And certainly, tourism does work for America.

The travel and tourism industry is our Nation's second largest employer, providing 6.8 million jobs. And in 1983, the most recent year for complete data are available, the industry was responsible for 43 percent of all new jobs.

It represented 6.4 percent of the U.S. gross national product in 1983, with expenditures totaling $210 billion. One-eighth of every dollar spent on travel and tourism is tax revenue. In 1983, the industry generated $13.8 billion in taxes for the Federal Government, $8.7 billion for our States and $2.8 billion in taxes for local governments.

As the second largest industry in Tennessee, travel and tourism are key to the economy of the State. Data provided by the U.S. Travel Data Center and the U.S. Travel and Tourism Government Affairs Council amply illustrate this, and I ask that this data be printed in the RECORD at this point.

The data follows:

TENNESSEE FACT SHEET: ECONOMIC IMPACT OF TRAVEL AND TOURISM IN 1982

Travel and tourism was the second largest employer in the state in 1982.

In 1982, travel and tourism generated: 82,900 jobs; 4.9 percent of all jobs in Tennessee; $645 million in payroll. Over $3.1 billion expenditures in the state.[1] Tourists spent nearly $8.7 million per day in Tennessee in 1982; $3,168 million total domestic traveler expenditures; $292 million total tax revenues;[1] $139 million federal tax revenues; $114 million state tax revenues. Tourism contributed more than $312,000 per day to Tennessee in state taxes in 1982. Tennessee received $27.14 in tourism generated state taxes for each dollar the state budgeted for tourism in 1982; $39 million local tax revenues.

Tennessee ranked 8th in the U.S. in terms of state tourism budgets in 1982-83.

[1] Totals do not include foreign visitor contributions.

Source: U.S. Travel Data Center and Travel and Tourism Government Affairs Council.

Note: 1982 is the latest data available. 1983 data will be released in late summer 1985.

Mr. SASSER. Mr. President, as favorable as the data on travel and tourism are, all of us who are concerned with the vitality of the industry can do even more to strengthen its role in our national economy, and National Tourism Week is an ideal time in which to undertake this effort.

Specifically, more Americans should be aware of the importance of tourism to our international balance of trade. The foreign visitor to the United States is part of a major export industry. Yet, the administration seems intent on deauthorizing and dismantling the U.S. Travel and Tourism Administration [USTTA], the agency charged with coordinating our Nation's policies regarding tourism, especially international tourism.

With the strong American dollar making travel from abroad less attractive, it is more important than ever that we have a strong, aggressive national policies in this regard. I am confident that the Congress will see to it that the life and funding of the USTTA are extended so that this agency can do the job that needs to be done in promoting international tourism in the United States.

There are many other themes about tourism that one could emphasize during National Tourism Week 1985, but I believe that the industry has adopted a most fitting one for the week that begins shortly: "Tourism Works for America." Let us take the occasion of this special week both to appreciate and to promote this important economic fact.●

ANNUAL FINANCIAL DISCLOSURE OF SENATOR STAFFORD

● Mr. STAFFORD. Mr. President, in each of the last 11 years, I have made public disclosures of my financial holdings, along with summaries of my Federal income tax return.

I have pledged that I would issue a similar report to the citizens of Vermont each year for the remainder of my time in public office.

In keeping with that promise, I am once again issuing a public statement of financial disclosure.

The financial statement shows that my wife, Helen, and I had net assets of $760,000 as of May 8, 1985, when the evaluation was made.

The statement I am making public details our holdings, including bank accounts, cash value of life insurance and Federal retirement fund, real and personal property we own, and stocks and bonds.

The majority of the stocks and bonds listed were owned by us before I entered public office in Vermont 30 years ago.

The summary of our joint Federal income tax return shows that Mrs. Stafford and I had an adjusted gross

income of $123,000 last year. Of that total, $72,300 came from my salary as a U.S. Senator.

Our total tax bill for the year was more than $46,000, of which $36,000 was in Federal income taxes and $10,000 in Vermont State income taxes.

I shall ask that details of our financial statement be printed in the CONGRESSIONAL RECORD, as in the past. And, as I have done in each of the last 11 years, I am making copies of the statement available to newspapers, radio and television stations and other news services in Vermont.

This information is being made public because I remain convinced that those who serve in government, as well as government itself, must be as open and candid as possible with the public.

The net assets of the Staffords increased by $110,000 last year, a gain of nearly 17 percent. A major portion of our assets continues to consist of homes in Virginia and Vermont whose estimated total fair market value is $310,000.

One of the best ways Americans have to judge whether their government and their officials are acting properly is to provide full disclosure of all interests of government and of those who make decisions in government.

Thus, I invite all Vermonters—and all other Americans—to examine my financial interests and to match those interests with my record as a public official.

We have made some progress in providing the public with more information about the interests and activities of public officials, but we have a long way to go in providing full public disclosure.

I shall continue to support legislation that provides greater ventilation of the way we do business in our Government. In the meantime, I shall continue to make my own full disclosure to my fellow Vermonters.

The material follows:

Summary of 1984 joint Federal income tax return Robert T. and Helen K. Stafford

Income:	
Salary	$72,342.96
Interest	8,577.79
Dividends	5,414.01
Honoraria	20,500.00
Other	20,399.79
Total income	127,234.55
Adjustments to income allowable congressional expenses not reimbused	3,849.26
Total adjustments to income	3,849.26
Adjusted gross income	123,385.29
Deductions	11,270.89
Exemptions	4,000.00
Taxable income	108,114.40
Federal income tax due and paid	36,006.48

Statement of financial condition Senator and Mrs. Robert T. Stafford, May 15, 1984

Certificates of deposit:	
Chittenden Trust Company	$10,000
First Vermont Bank	10,000
Howard Bank	10,000
Howard Bank	10,000
Marble Savings Bank	10,000
Proctor Bank	10,000
Proctor Bank	10,000
Vermont National Bank	10,000
Vermont National Bank	10,000
Vermont Federal Bank	10,000
Total	100,000
Checking accounts:	
First Virginia Bank	600
Howard Bank	300
Riggs National Bank	18,000
Total	18,900
Life insurance:	
Connecticut General	
MONY	
NYLIC	
NSLI	
Travelers	
Total	20,000
Real estate (estimated market value):	
3541 Devon Drive, Falls Church, VA	150,000
27 Howard Avenue, Rutland, VT	60,000
64 Litchfield Avenue, Rutland, VT	100,000
Total	310,000
Additional assets:	
Contributions to Federal retirement (Dec. 31, 1984)	$82,055.83
Law library and office furniture	2,000.00
Boat and cars (two)	110,000.00
Personal property	35,000.00
Total	229,055.83
Stocks:	
Names and Shares	*Value*
NYNEX Corp.—77 at 82⅞	$6,381.36
AT&T—100 at 21½	2,150.00
Bellows Falls Trust Co—120 at 60	7,200.00
Cluett Peabody—20 at 30½	610.00
Con Edison of N.Y.—common 200 at 32⅜	6,475.00
Gillette Co.—20 at 60¼	1,205.00
Greyhound Corp.—20 at 28¼	565.00
Howard Bank—1425 at 22¾	32,418.75
International Harvester—20 at 9	180.00
Monsanto—80 at 46⅞	3,750.00
N. L. Industries—common 40 at 11⅞	475.00
National Distillers—40 at 29⅝	1,185.00
Outboard Marine—40 at 22⅞	915.00
Security Pacific Corp.—19 at 27¾	527.25
Time, Inc—75 at 54¼	4,068.75
Vendo—10 at 7⅜	73.75
Total	68,179.86
Keough account (Howard Bank)	13,983.28
Recapitulation: Total assets	760,118.97

PAN AMERICAN HEALTH ORGANIZATION'S CAMPAIGN AGAINST POLIO

● Mr. KENNEDY. Mr. President, earlier this week I had the privilege to attend the Pan American Health Organization's meeting to launch its 5-year campaign to eradicate polio from the Americas by 1990.

It was a remarkable meeting, not the least because of the attendance of all the scientists whose work has led to the possibility of eradicating this dreaded disease from our planet. All Nobel laureates for their pioneering work—Dr. Jonas Salk, Dr. Albert Sabin, Dr. Fredericak Robbins, and Dr. Thomas Weller—were given a standing ovation as the Pan American Health Organization announced that their life-saving vaccines would be mobilized to eliminate the scourage of polio in the Western hemisphere.

In announcing the program, the director of PAHO, Dr. Carlyle Guerra de Macedo, said it best: Despite dramatic advances that have been made with polio immunization, the disease has not been conquered here in our own hemisphere. He said:

> By 1990, if nothing new is done and if the number of new victims reported in 1984 is repeated year by year, there will be at least 2,500 more children paralyzed, crippled or dead because of this acute viral disease. We must put an end, once and for all, to that spectre of crippling disease which still looms before the children of the Americas.

As the regional office of the U.N. World Health Organization, this campaign by PAHO reflects the larger goals of WHO to immunize the children of this world against the preventable diseases that yearly kill 5 million children under the age of 5.

Mr. President, this is the work of the United Nations that we should commend and support—not denigrate, as some did just yesterday on the Senate floor during the debate on the foreign assistance bill. The work of WHO, and through it the Pan American Health Organization, deserves our praise and our active support.

Their work is also being recognized by the private sector, and I am delighted to learn that Rotary International has pledge to promote and assist in polio immunization of all children, worldwide, by the year 2005—Rotary's 100th anniversary.

Just in support of PAHO's campaign in the Western Hemisphere, Rotary has already contributed $6 million—with a commitment to do much more.

Other U.N. agencies, particularly, UNICEF, with its "Child Survival" initiative, are also supporting the campaign.

Mr. President, I commend to the attention of the Senate the outstanding work of PAHO as it launches a major program to eradicate polio from the Americas. I ask that the announce-

ment by Dr. Macedo, director of PAHO, as well as Rotary International's program statement, be printed in the RECORD.

The material follows:

ANNOUNCEMENT BY DR. CARLYLE GUERRA DE MACEDO, DIRECTOR, PAN AMERICAN HEALTH ORGANIZATION

I am pleased to welcome so many distinguished scientific, political, and diplomatic leaders this morning to the Pan American Health Organization. Your presence here at PAHO demonstrates once more the combined commitment of the countries of the hemisphere to the struggle against disease in the Americas.

As the Regional Office of the World Health Organization in this hemisphere, PAHO has a permanent task of working with its member countries in pursuit of Health For All by the Year 2000. That responsibility is even greater when it touches our children.

Throughout the world, some 5 million children under five years of age die each year from diseases which we can prevent with medicines and relatively common technology available to us today. They die mainly of poor perinatal care, of hunger or of some infection. In the countries of the Americas, 800,000 children die each year from preventable diseases, as many children as the number of people who live in this city. It is as if an entire city the size of Washington, its inhabitants only children, were to be destroyed every year.

The tragedy is that those lives are lost not because we do not know how to prevent or control those diseases, but because we have failed to assure all children access to the benefits of the knowledge we possess.

Perhaps the most effective and efficient of all the health technologies know to man is immunization. The geniuses of science, and many are here today, have developed effective vaccines which protect against most of the childhood infectious diseases. Yet, 80 per cent of the world's children do not receive that protection. Even here in the Americas, 4 million children born every year do not yet have access to vaccination against those childhood killer diseases.

Around the world, every six seconds, one child dies and another is disabled because of the failure to immunize against those diseases. . . . In that space of time, a child has died because of the lack of immunization.

A decade ago, the World Health Organization sought to counter this threat to the children of the world by establishing the Expanded Program on Immunization. In 1977, it was begun here at PAHO with the aim of preventing six diseases—measles, diphtheria, tetanus, whooping cough, tuberculosis and poliomyelitis.

We created a revolving fund, financed by special contributions of several donor countries. Last year, PAHO received a special grant from the U.S. to complete that fund. PAHO now can purchase vaccines for the participating countries at the lowest possible cost. Reducing the cost means reaching more children.

Much has been achieved since 1977. A vast number of health workers have been trained. Cold chain systems that keep the vaccines viable have been organized and are being maintained in country after country. Immunization is one of the top priorities in the national health plans of every country of this region.

In 1977, immunization reached between 25-30% of the children. By 1984, we say the countries double that coverage, extending that fundamental life-saving technology to 60 percent of the children at risk. The gap is still enormous: too many children still suffer needless illnesses and too many still die.

The most dramatic advances have been made with polio immunization where we have boosted coverage nearly three-fold to 75% of those under one year of age since 1977. But the disease has not been conquered: by 1990, if nothing new is done and if the number of new victims reported in 1984 is repeated year by year, there will be at least 2,500 more children paralyzed, crippled or dead because of this acute viral disease.

We must put an end, once and for all, to that spectre of crippling disease which still looms before the children of the Americas. Without the eradication of the polio virus, the chances of a sudden outbreak of polio still exists. Eradicating the virus from the hemisphere is the only sure way to protect our children from the threat of that disease.

We have the means available to accomplish that goal, thanks to many of the men who are with us today. These remarkable scientists have given us the tools to put an end to the sight of children in wheel chairs or hospital beds because of polio. Drs. Frederick Robbins, and Thomas Weller, along with Dr. John Enders, received the Nobel Prize for their pioneering work with tissue culture which made a vaccine possible.

The final developers of the vaccines also are with us today, and their great contribution to the well-being of children has made their names household words—Dr. Jonas Salk and Dr. Albert Sabin.

They have made it possible. But there are others who have helped to make it feasible. The many multilateral, bilateral and nongovernmental agencies—most of which are represented here today—helped create the necessary network of external support for the countries of the world.

UNICEF, through its strong advocacy of child survival, has raised international awareness, motivated governments and provided important resources for immunization. UNICEF and PAHO have developed an unprecedented and extraordinary cooperative relationship. Throughout the Americas, we are working side by side sharing goals, projects and resources.

UNDP and UNFPA have promoted vaccine quality programs and strengthened maternal and child health services.

The Inter-American Development and the World Bank have emphasized immunization in financing development and health projects in the Americas.

USAID and other bilateral cooperation agencies, have given substantial priority to programs in child health, especially immunization and oral rehydration.

Rotary International is a stellar example of the spirit of voluntary action by citizens around the world. It has dedicated itself to make the elimination of polio its highest priority.

Some of these organizations are part of the Group which met under international auspices at Bellagio to commit themselves to protect the world's children through immunization.

The work of the individuals whom I have cited, the collaborative actions of the various agencies I have mentioned and above all, the progress of the countries themselves, have convinced us that it is feasible today to interrupt the transmission of wild polio virus in the hemisphere by 1990. We are convinced that it is possible to reduce the number of cases from 500 annually to zero.

We are proposing that the member countries of PAHO be supported by all of us to achieve the eradication of polio from the Americas in a massive final five year effort. The time has come for us to say that it is unacceptable for any child in the Americas to suffer from polio.

We saw nearly 200 years elapse between Jenner's vaccination experiments and the elimination of smallpox from the Americas and the world. The genius of man has made it possible for us to consider a time much shorter between the first vaccinations for polio and its elimination from our hemisphere. The Americas was the first Region to eliminate smallpox; we can be the first to eliminate polio.

It will not be an easy task, but we are convinced that our plan of action can work. It will focus on the accelaration of the Expanded Program of Immunization with special vaccination strategies in each country, supported by effective disease surveillance and control and training of health workers. It will strengthen the countries' maternal and child health services which are so vital for the health of our children.

We will be tapping the voluntary organizations in every country, inviting the participation of the mass media and mobilizing individual families and communities. We will promote a nationwide effort in every country, dedicated to a common strategy, committed to a common goal.

The drive to eliminate polio will be the vehicle that will carry the nations of the hemisphere toward the EPI goals of universal immunization against the childhood diseases by 1990.

We estimate that the cost of halting the transmission of wild poliovirus from the Americas will be approximately $100 million over the next five years. We believe that we will obtain one-third of that amount from donor countries and institutions and part of that amount already is included in their current and future budget plans. The remainder will come from the countries themselves, in spite of the financial crisis which currently pervades this Region. For most of them, it will mean the reprogramming and more efficient utilization of resources which are already being spent in health.

I am convinced that this commitment by the nations of the Americas to eradicate polio will not fail because of the lack of financial resources. The long-term economic return will far outweigh the actual costs of the effort, although my personal conviction is that it is time to stop using economic indicators alone to measure the development and well being of children.

Although individual countries have shown that it can be done, skeptics will say this is too ambitious an undertaking. I say it is the least that we can do. For I dream of a time when we have not only rid this hemisphere of the curse of polio, but of a time when, for every child, the future is, as the poet wrote, "a world to be born under your footsteps." We can build a better world for our children. We can make a revolution in health. We need only to decide to work together to do it.

Let us now take this first step toward that future by eradicating polio from the Americas by 1990: I trust that we or others like us will meet here at that time to rejoice in our having achieved the goal we have set today.

Once more, in this special struggle to eradicate polio, health must and will be a

bridge for solidarity and understanding between the peoples and countries of the Americas, a bridge for peace and well-being.

ROTARY ESCALATES WORLD WAR AGAINST POLIO WITH MASSIVE 20-YEAR PROGRAM

POLIO 2005 PLAN

Rotary International has pledged to promote and assist polio immunization of all children worldwide by 2005, Rotary's 100th anniversary. It has already launched or approved immunization projects in 19 countries to protect more than 46 million children.

By adding its efforts to those of WHO's Expanded Immunization Program (EPI), UNICEF, and other organizations, Rotary—through The Rotary Foundation of Rotary International—contributes to making a polio-free world a reality through its work in developing nations.

Rotary will provide all the polio vaccines necessary for up to five consecutive years for any approved city, state, country, or regional immunization program—either as part of annual national days of immunization against polio or through other delivery tactics, in overall support of the EPI.

Rotary will make available to any less-developed country, upon invitation, a team of experts to help assess, plan, implement, and evaluate a plan for annual national days of immunization against polio. In each country targeted for such campaigns, a committee of Rotarians, in conjunction with Rotary's expert team and national and local health officials, will seek to motivate and utilize resources of the private business and professional sectors. Recently, the World Health Organization (WHO/PAHO) established official relations with Rotary International as a non-governmental agency.

ROTARY ACTION TO CONTROL POLIO IN THE AMERICAS

In the Americas, The Rotary Foundation currently is conducting or planning five-year immunization projects in nine countries. In addition, as part of Rotary's new Polio 2005 Program, Rotary Foundation immunization expert Mejico Alfredo Angeles, vice minister of health for the Dominican Republic, is now in Paraguay working with a Pan American Health Organization team to determine if a mass immunization program is feasible in that country.

ROTARY IMMUNIZATION PROJECTS IN THE AMERICAS

Belize: A U.S. $51,200 grant is approved for a national program due to begin in May or June, 1985. The grant will be used to purchase equipment and provide training for both health workers and maintenance personnel as part of a national effort to protect 35,000 children.

Bolivia: Now in its third year, the U.S. $104,000 Rotary Foundation project provides both polio vaccine and cold chain equipment for a national effort to protect 425,000 children. A national immunization day was held October, 1984.

Costa Rica: Polio vaccine for 500,000 children is being provided through a U.S. $50,000 Rotary Foundation grant. The second shipment, comprising 600,000 doses, was purchased November, 1984.

El Salvador: Local Rotarians donated 3,000 vaccine thermoses for El Salvador's first three national immunization days this year and actively participated in implementing the program. Polio vaccine for the next five years of the project, designed to protect 1,454,000 children, will be purchased through a U.S. $274,000 Rotary Foundation grant.

Haiti: To launch Rotary's immunization project to protect 540,000 children, local Rotarians enlisted 1,000 volunteers in an inaugural event held in Port au Prince in April, 1982. Now in its third year, the project is funded by a U.S. $196,000 Rotary Foundation grant.

Guatemala: The first one million doses of polio vaccine to be purchased through The Rotary Foundation's U.S. $378,600 grant was ordered in February, 1985. Local Rotarians are actively promoting that nation's efforts to protect 1,920,000 children.

Panama: In support of Panama's efforts to protect 400,000 children from childhood diseases, The Rotary Foundation has awarded U.S. $537,000 for a massive public information campaign to be supported by local Rotarians' work to enlist the participation of the entire population.

St. Lucia: A U.S. $66,000 Rotary Foundation grant will supply a variety of needed vaccine for this island nation, including polio vaccine to protect 20,000 children.

OTHER ROTARY FOUNDATION IMMUNIZATION PROJECTS

Country	Children to be immunized	Foundation grant
Gambia	200,000	50,500
Ghana	1,875,000	374,000
Liberia	268,865	56,800
Morocco	5,000,000	734,600
Nigeria	21,150,000	2,810,000
Philippines	6,000,000	760,000
Senegal	1,250,000	219,000
Sierra Leone	1,000,000	165,000
Sudan	1,200,000	236,000
Zambia	2,200,000	367,000

SUPPORT OF NOMINATION OF WILLIAM H. OPEL FOR U.S. MARSHAL FOR ALASKA

● Mr. MURKOWSKI. Mr. President, I am honored to support the nomination of an outstanding Alaskan, Mr. William H. Opel of Anchorage, to be the U.S. marshal for the State of Alaska. Mr. Opel's nomination for this important position was confirmed late last evening by the Senate.

Bill Opel is extremely well-qualified and deserving of this appointment. He has been with the U.S. Marshal Service in Alaska for over 15 years and has been the court-appointed marshal since 1977.

In addition to his dedication as a member of the U.S. Marshal Service, Bill has also demonstrated his service and dedication to our country through a distinguished military career.

After graduating from high school in 1943, Bill joined the U.S. Army, first serving in Europe during World War II. During the war he was awarded nine decorations and five battle stars before receiving an honorable discharge on December 9, 1945.

At the outbreak of the Korean war, Bill, reenlisted in the Army and volunteered for combat duty. During his assignment in Korea, Bill received six additional decorations.

After his tour of duty in Korea, Bill continued to serve in the Army for the following 12 years in Germany and Taiwan. In 1964, he became the first American to be awarded the Chinese Police Medal by the Taiwanese Government.

In 1967, at the height of the Vietnam war, Bill again volunteered for combat duty. During the 13 months he served in Vietnam, he was awarded the Purple Heart, two Bronze Stars, one of which was for heroism, the Vietnamese Medal of Honor and the Vietnamese Cross for Gallantry. Bill Opel has the distinction of being recognized as the most highly decorated enlisted man in Alaska.

Upon his retirement from the Army in 1970 at Fort Richardson, AK, Bill joined the U.S. Marshal Service.

Bill's career with the U.S. Marshal Service has been as illustrious as his military one. After entering the U.S. Marshal Service as a deputy marshal, he was promoted through the ranks to the position of chief deputy U.S. marshal, before being appointed as U.S. marshal for the State of Alaska. During his career in the Marshal Service he has accumulated almost as many awards and honors as he did in the Army. In fact, Bill has received 22 letters of commendation and is the first member of the Alaska Marshal Service to be awarded the Outstanding Performance Award by the U.S. Marshal Service.

There is one more honor that has been bestowed upon Bill, although it may be a dubious one. Because of bureaucratic problems, he has served as the longest court-appointed U.S. marshal in the history of the U.S. Marshal Service.

Mr. President, I know of no other person more worthy of becoming the U.S. marshal for Alaska.

It is a distinct honor for me to support the nomination of Mr. William H. Opel of Anchorage, AK, to be U.S. marshal for the State of Alaska, and I commend my colleagues for having confirmed his nomination.

Mr. President, I ask that a letter in support of Mr. Opel's nomination, written by Judge James Fitzgerald, chief judge of the U.S. District Court for the State of Alaska, be printed in the RECORD.

The letter follows:

U.S. DISTRICT COURT,
DISTRICT OF ALASKA,
Anchorage, AK, March 28, 1985.

MR. STANLEY E. MORRIS,
Director,
U.S. Marshals Service,
McLean, VA.

DEAR MR. MORRIS: A few months ago a story broke in the local press concerning misfeasance involving millions of dollars in the affairs of the North Slope Borough, an Alaskan municipality. This initial report has been followed by many wide-ranging news articles, T.V., and radio broadcasts throughout Alaska. It was recently reported in the media that federal officials, including the Federal Bureau of Investigation and the Internal Revenue Service agents are involved

in ongoing investigations into the affairs of the North Slope Borough.

Within the past two weeks a second Grand Jury was empanelled at the request of the United States Attorney, Mr. Michael Spaan. I was informed by Mr. Spann and by certain agents of the Federal Bureau of Investigation of the necessity of protecting the identity of several confidential informants who would be appearing before the Grand Jury. I was satisfied, on the basis of information made available to me, that not only was it essential and necessary to protect the identity of the confidential informants but the identity of members of the Grand Jury as well.

Acting United States Marshal William Opel was assigned full responsibility by this court to ensure the secrecy of all Grand Jury proceedings, as well as the protection of the identity of Grand Jurors and confidential informants.

I have now received a letter from the United States Attorney commending Marshal Opel for achieving full security of the Grand Jury and the witnesses who appeared during recent sessions of that body. Mr. Spaan reports that the Grand Jury was able to conduct its business without interference by interested defense lawyers and the media. According to Mr. Spaan, Marshal Opel performed an outstanding job.

This is only the latest instance in which Marshal Opel has performed his duties in a most commendable manner. From time to time, he has had to provide courtroom security for the trial of criminal cases in which a substantial threat of disruptive behavior existed. In every instance, Marshal Opel has carried out his duties and has appropriately instructed and supervised his deputies. At no time have I ever heard a single complaint that either he or his deputies acted in any manner offensive or officious to the public in performing these sensitive responsibilities. I believe his nomination as United States Marshal in this district is now pending before the Senate Judiciary Committee. For that reason, I am also sending copies of my letter to our United States Senators, Senator Ted Stevens and Senator Frank Murkowski. I, and the other judges of this court, believe we are fortunate to have the services of a dedicated and worthy officer of the United States Marshals Service.

Very truly yours,

JAMES M. FITZGERALD,
Chief Judge.●

REPRESENTATIVE ROBERT TORRICELLI

● Mr. HART. Mr. President, I am privileged to be working with one of the young Democratic leaders in the House of Representatives on a proposal about which I care deeply.

Congressman ROBERT TORRICELLI a Democrat from New Jersey, is the House sponsor of legislation I introduced in the Senate on the subject on national service. Our bill, the Select Commission on National Service Opportunities Act of 1985, calls for the establishment of a panel to investigate the issues associated with national service.

The activities of the Commission—which is empowered under our bill to hold hearings on national service—will focus the attention of the country and the Congress on how we can establish incentives and opportunities for our young people to provide service to the Nation.

On May 12, the Bergen Record, a distinguished daily newspaper in northern New Jersey, ran an editorial titled "At Your Service." In it, the Record recognizes that some form of national service would help this Nation meet a catalog of needs which need to be filled—problems in our cities, the elderly who need companionship, restoration of housing, and others.

The Record also paid tribute to the House sponsor of the legislation, saying: "At a time when the currency of patriotism is debased by sloganeering, it is bracing to hear Representative ROBERT TORRICELLI talk about asking Americans to repay some of the benefits of citizenship."

I think this editorial makes an important contribution to the debate on national service by correctly identifying the core value of this proposal, and by saluting Congressman TORRICELLI for his leadership on this issue.

I ask that the full text of the editorial appear in the RECORD.

The editorial follows:

AT YOUR SERVICE

At a time when the currency of patriotism is debased by sloganeering, it is bracing to hear Rep. Robert Torricelli talk about asking Americans to repay some of the benefits of citizenship. Mr. Torricelli, of Hackensack, and Sen. Gary Hart of Colorado are cosponsoring legislation that will open the debate on a system of universal national service.

Their bill would establish a Select Commission on National Service Opportunities to come up with practical proposals for a mandatory period of military, volunteer, or government service by every man and woman aged 18 to 25.

It's not a new idea, Franklin Roosevelt recruited 3 million youths to build dams and rehabilitate parks in the Depression. John Kennedy's Peace Corps, created as an embodiment of his ideals of public service, has sent 35,000 volunteers overseas. Robert Kennedy talked about some kind of obligatory national service for everyone.

It is a question of opportunities. We seem to be at a juncture in our history, said Mr. Torricelli, where young people yearn to make a contribution to their society. National service would give them an opportunity to do so. At the same time, it would give a more fundamental kind of opportunity to the large number of youths who've never had decent housing, decent diets, decent schooling—and who thus enter adulthood with no hope of finding a productive job. Here the opportunity is society's to help these youngsters overcome educational and economic deficits and enter the mainstream.

There is a long catalog of national needs to be filled—an enormous amount of work to do. Our cities are marred with blasted neighborhoods. Salvageable housing is ceded to junkies and their dealers. Parks are trashed. Many children should have tutoring to help them catch up in school—or someone to play ball with after school. Lonesome old people need errands run, windows washed, someone to talk to. A million social needs go unanswered because most of us are so busy pursuing livelihoods.

Universal national service is a promising answer. There are a host of practical problems. How much would it cost to place millions of young people in military, public, and social services? How would we choose the work for them to do? Would they be paid according to present military pay scales, for instance, or on a sliding scale controlled by the difficulty of their assignments? How would a tour of duty mesh with ongoing educational or career or family goals? How would the government match its needs with the preferences of individual recruits for, say, the military, the Job Corps, the Peace Corps, or local government service?

The questions are legion but not imponderable. Fiscal and administrative obstacles must be overcome. But it's hard to think of an endeavor that would better suit the physical and psychic needs of this nation and its people.●

FRATERNAL ORDER OF POLICE

● Mrs. HAWKINS. Mr. President, I rise today to recognize the Fraternal Order of Police for their active participation in protecting our Nation's children. We find in this organization, activities vital to success in combating child abuse and kidnapping.

Robert Spiegel, chairman of public relations, has taken a strong interest in this issue. He was instrumental in getting the national lodge to adopt the Ident-A-Child Program and has consistently supported child safety programs throughout the years.

The Fraternal Order of Police was involved with action in putting together a number of publications on children, such as the Child Safety Program Handbook. It also undertook the task of fingerprinting children across America. They concentrated one program on Dade County, FL, in which they took fingerprints and photographs of children. They gave parents identification cards with vital information, excluding names and addresses to prevent possible misuse by child abusers.

The organization has also been active in legislation concerning child safety. They were instrumental in getting the first joint resolution for National Missing Children Day passed, and they actively supported juvenile justice legislation and the President's criminal justice legislation. Most recently, the Fraternal Order of Police was asked to aid in the President's national partnership on child safety, and, with their active involvement, they hope to comprise a portion of the task force.

We must pull in all of America in this protection of our Nation's most valuable resource. The Fraternal Order of Police serves as a model to all public organizations to involve themselves in protecting our children.●

SOVIET STRATEGY IN GENEVA

● Mr. NUNN. Mr. President, when the Soviet Union agreed to return to Geneva for new negotiations on nuclear and space arms, there was hope that the Soviets would come to the negotiating table with serious proposals and a new spirit of flexibility and compromise.

Instead, they devoted the first 6 weeks of the talks to propaganda, posturing, and public diplomacy. Round one of the negotiations demonstrated that the Soviets are prepared, at least for now, to defend totally unacceptable proposals that have actually regressed from earlier Soviet offers in START and INF. If, in Soviet eyes, the raison d'etre of these talks is to achieve a negotiated agreement that prohibits the deployment of new strategic defenses, then round one certainly moved them no closer to this goal.

On May 1, Ambassador Paul Nitze gave a speech at the National Press Club in which he offered a possible explanation for Soviet behavior in round one. According to Ambassador Nitze, the Soviet Union is "pleased with the current strategic situation" and is therefore trying to freeze its perceived advantage in several key elements of strategic power, including prompt counterforce capability, longer-range INF missiles, ABM's and ASAT's. In short, Ambassador Nitze argues that, rather than negotiate an accord that would provide for strategic parity, the Soviets are "devoting their efforts to countering any change."

Mr. President, I ask that the entire text of Ambassador Nitze's speech be inserted in the RECORD.

The text follows:

THE FIRST ROUND IN GENEVA

(Paul H. Nitze)

INTRODUCTION

On April 23, U.S. and Soviet negotiators completed their first round of talks on nuclear and space arms in Geneva. On that same day, in his speech at the Central Committee Plenum, Soviet General Secretary Gorbachev criticized the United States for blocking progress in the negotiations. He alleged that we had refused to discuss the question of preventing an arms race in space. He charged us with violating the agreement reached in January by Secretary Shultz and Foreign Minister Gromyko to address the complex of issues in their interrelationship. Finally, he extolled the moratorium proposal introduced by the Soviets in the first round as providing a basis for progress.

Mr. Gorbachev's claims are without merit. The U.S. approach to the negotiations is specifically designed to pursue all of the agreed objectives of the talks, including preventing an arms race in space. It is the Soviets who, by focusing their energies on an attempt to derail SDI research, are contradicting the January agreement to deal with all the issues in their interrelationship. The Soviet moratorium proposal does not provide a useful basis for progress. And it is the Soviet approach as a whole that is blocking U.S. efforts to facilitate movement in the negotiations.

Let me review the results of the first round and explain the basis for these conclusions.

BACKGROUND

As you remember, the Shultz-Gromyko agreement in January established the parameters of the negotiations. They agreed that the subject is the complex of questions concerning space and nuclear arms—both strategic and intermediate-range—to be considered and resolved in their interrelationship. The agreed objective is to seek effective agreements aimed at reducing strategic and intermediate-range nuclear arsenals, at strengthening strategic stability, and at preventing an arms race in space. The detailed work of the talks is being conducted in three negotiating groups, addressing strategic nuclear arms, intermediate-range nuclear forces, and defense and space arms.

U.S. APPROACH

The United States approached the first round of the negotiations with four primary objectives in mind. The first of these is to seek equitable and verifiable agreements leading to deep reductions in offensive nuclear arsenals. These are the weapons that exist today and which thus pose the most immediate threat to our mutual security.

Our second goal is to resolve our concerns about the erosion of the ABM Treaty regime that has resulted from Soviet actions over the past decade, and about Soviet noncompliance with that and other existing agreements. We are determined to seek corrective action where violations have occurred.

Our third objective is to lay out the US strategic concept and engage the Soviets in a general discussion of the offense-defense relationship. Specifically, we want to explain how, over the long term—should new defensive technologies prove feasible—we hope to make a transition from the current situation, in which deterrence rests on the ultimate threat of devastating nuclear retaliation, to one in which nuclear arms are greatly reduced and increasing reliance is placed on defenses which threaten no one. We intend, when the Soviets are ready to join us in doing so, to begin discussions with them on our ideas as to how our two sides might jointly manage such a transition.

Our final objective is to impress on the Soviets that our ultimate goal, as the President has repeatedly stated, is the elimination of all nuclear weapons. The Soviet Union has long stated this to be its goal as well. We have no illusions that our two sides can quickly or easily agree on the practical steps necessary to reach this goal, but its importance makes it imperative that we persist. Were nuclear weapons to be eliminated, we would have to devote particular attention to how, together with our allies, we might counter and diminish the threat posed by conventional arms imbalances, through both arms improvements and arms control efforts.

At the beginning of the round, in meetings of the full delegations, the US negotiators presented our assessment of the current strategic situation and our ideas on how we could pursue the agreed objectives of the talks. After two weeks, the delegations broke into the separate negotiating groups and the detailed work began.

In the negotiating group on strategic offensive arms, the US laid out its conceptual approach to achieving significant, equitable, and verifiable reductions, in a manner that would improve stability. This approach includes substantial reductions in the number of warheads on, and the destructive capacity of, ballistic missiles, as well as limits on heavy bombers and the number of ALCMs they carry below the levels set by SALT II. US negotiators emphasized the broad authority they had been given by the President for working out means to reach that goal. They made it clear that it is the substantive outcome more than the method of achieving it that is of primary importance.

The US side also stressed that the US is not trying to dictate the character of the Soviet force structure. We recognize that there are substantial differences between our respective nuclear arsenals, and have therefore urged the Soviets to explore with us possible trade-offs between areas of US and Soviet advantage and interest. An example of such a trade-off would be a provision allowing a Soviet advantage in ballistic missile capability in return for a US advantage in bomber capability.

In the negotiating group on intermediate-range nuclear forces, the US reaffirmed its preference for the complete elimination of all US and Soviet longer-range INF missile systems. We reiterated our willingness to agree, as an interm measure, to reduce LRINF missiles to the lowest possible equal global limits on warheads. Finally, in order to take account of previously expressed Soviet concerns, we renewed our willingness to consider a commitment not to deploy in Europe all of the LRINF missiles to which we would be entitled under equal global ceilings, to apportion reductions to be made in LRINF missiles between Pershing IIs and GLCMs in an appropriate manner, and to discuss LRINF aircraft limitations. As in the strategic arms group, the US negotiators emphasized their flexibility.

In the defense and space negotiating forum, we pointed out the instability that exists in the current strategic situation and the need for our two sides to address the problem. We stressed the importance we attach to reversing the erosion of the ABM Treaty regime. In that regard, we underlined the premium we place on treaty compliance in the arms control process and our concern about Soviet actions that violate the ABM Treaty and other existing agreements. Notable in this regard is their construction of a large phased-array ballistic missile tracking radar at Krasnoyarsk that, because of its interior location, orientation, and early warning capability, violates ABM Treaty constraints. We also explained to the Soviets our view on the relationship between offensive and defensive forces, the potential contribution of defensive forces to our mutual security, and how—if new defensive technologies prove feasible—we might manage a stable transition over time toward increased reliance on defenses.

In sum, the United States carried out its planned agenda in the first round. We explained our concerns created by the existing array of nuclear arsenals and put forth sound proposals to redress those problems. We outlined our vision of a safer and more stable future and explained our ideas on how such a future could be realized.

SOVIET APPROACH

The Soviet approach to the first round contrasted sharply with ours. Where we sought deep reductions in existing nuclear arsenals, they proposed to freeze the current situation—with its existing imbalances—and address largely unspecified reductions later. Where we sought to explain our ideas on how increased reliance on defenses, should they prove feasible, might en-

hance strategic stability, they insisted on banning any new effort—even research—in the defense area.

The strategy underlying the Soviet approach seems clear. The Soviet Union is pleased with the current strategic situation. They possess substantial advantages in several key measures of strategic offensive nuclear power, especially in prompt counterforce capability. They hold a large advantage in the area of intermediate-range nuclear forces, particularly in longer-range INF missile systems. Moreover, they have the only operational ABM system and have until recently enjoyed a virtual monopoly in research into advanced ballistic missile defense technologies. Finally, they have the only operational anti-satellite system. They want to maintain this situation, and thus are devoting their efforts to countering any change. Their most important objective in this regard is to stop the US SDI research program, which threatens to find counters which would negate many of their advantages, both offensive and defensive. Similarly, they wish to abort our strategic modernization program and roll back NATO's INF deployments. To this end, they attack and thereby seek to undermine support for these programs by characterizing them as exacerbating the "arms race," all the while remaining silent on the strategic buildup of the Soviet Union.

The centerpiece thus far of the Soviet strategy is their moratorium proposal, tabled early in the round in Geneva and publicized three weeks later by General Secretary Gorbachev.

With regard to offensive weapons, the Soviets propose a quantitative freeze on strategic arms and a moratorium on further deployments of "medium-range" missiles. These are the same old discredited proposals the Soviets surfaced in the past. They first raised a moratorium over three years ago in the INF negotiations, though, after supposedly invoking it on a unilateral basis in 1982, they continued construction of SS-20 bases already begun in the European USSR and deployed new missiles at those bases. Interestingly enough, we see construction of SS-20 bases continuing again today, after Mr. Gorbachev's declaration of a new unilateral moratorium.

The Soviets subsequently proposed a moratorium in START. As we noted on those occasions, a moratorium would lock in the advantages the Soviets have gained in both strategic and intermediate-range nuclear arms as a result of their deployment of many modern systems during a period in which the US has exercised restraint. Negotiating it would divert considerable time and attention from the more important goal of achieving deep reductions, and would also directly undercut the prospects for achieving reductions, instead giving the Soviets incentives to preserve their advantages by perpetuating the freeze.

With respect to strategic defense, the Soviets propose a comprehensive ban on research and development, as well as on testing and deployment, of what they call "space-strike arms."

It is difficult to see how one could effectively or verifiably ban research. The Soviets have in the past agreed with this view, not only at the time of the negotiation of the ABM Treaty but also in January in Geneva.

How could one decide what research would lead to "space-strike arms," and thus cross over the line into the restricted category, and what research would not? It would be impossible to monitor the actions and thoughts of all the scientists and technicians in the research institutes and laboratories in every country of both alliances.

Moreover, SDI research holds open the one possibility of providing the means for a move to a more defense-reliant relationship, one that would be more stable and reliable for both sides. It makes no sense to foreclose such a possibility. Furthermore, such research is a powerful deterrent to a Soviet breakout from the ABM Treaty.

The Soviets themselves have clearly seen the value of researching new defensive technologies. They have devoted considerable time and resources to such an effort. This includes high-energy lasers—for example, at the Sary Shagan test center—and particle beam weapons.

Why, then, do the Soviets propose to ban such research? The answer is simple. The Soviets are ahead in research on, and deployment potential for, nuclear-armed ground-based ABM interceptors, and they seek to preserve and enhance these advantages. At the same time, the Soviets fear that the West's superior technological base could give us an advantage in the more exotic defensive technologies, and they want to prevent this. At worst, a mutually observed ban would leave them where they are today. Moreover, given the unverifiability of a research ban and the closed nature of their scientific community compared to ours, they very well might be able unilaterally to continue research on advanced defense systems on a clandestine basis. From Moscow's point of view, such a monopoly in the area of strategic defense research would certainly be the most desirable outcome.

As for development, testing and deployment of so-called "space-strike" arms, most of this is already covered by provisions of existing treaties. The Outer Space Treaty prohibits the placing of weapons of mass destruction, including nuclear weapons, in space. The Limited Test Ban Treaty forbids the testing of nuclear arms in space.

Additionally, all systems—whether nuclear or otherwise—which have a capability to counter strategic ballistic missiles or their warheads at any point in their trajectory are subject to the ABM Treaty. That agreement prohibits the deployment of ABM systems in space or on the earth, except for precisely limited, fixed, land-based systems. Its provisions also cover testing and engineering development of such systems or their major components.

It thus appears that the sole space activity that is not covered by existing agreements is that of a narrow class of anti-satellite or ASAT systems. This class is restricted to non-nuclear systems capable of attacking satellites, but not capable of countering strategic ballistic missiles or strategic ballistic missile warheads. Were they capable of the latter, they would be subject to terms of the ABM Treaty.

In essence, we are talking about the Soviet co-orbital interceptor—the world's only operational ASAT system—and the aircraft-launched miniature vehicle system now under development by the United States.

Banning ASAT-capable systems presents difficulties. Once an ASAT weapon, such as the Soviet co-orbital ASAT, has reached operational status, it is questionable that one could assure that all such systems had been destroyed. Even were we to find a way to ban the declared US and Soviet ASAT systems, most satellites would still be vulnerable to attack, especially by nuclear weapons. The existing Soviet Galosh ABM interceptors deployed around Moscow are capable of attacking low-orbiting satellites, which pose much easier targets than do ballistic missile warheads. In fact, any ballistic missile capable of lofting a nuclear weapon to orbital altitudes has some inherent ASAT capability.

Thus, we concluded, after carefully studying the Soviet moratorium proposal in the aftermath of its presentation in Geneva, that it does not provide a useful basis for progress in the Geneva talks.

SOVIET ALLEGATIONS

In an attempt to buttress their position, the Soviets during the first round, and Mr. Gorbachev in his Central Committee Plenum speech, accused us of violating the Shultz-Gromyko agreement in two respects. First, they charged us with failing to honor the commitment to address the complex of space and nuclear issues in their interrelationship, based on their novel definition of that term. The Soviets asserted that progress on the issues in the two groups dealing with offensive arms would be impossible unless the US agreed to the Soviet proposal to ban "space-strike arms," and that, by failing to accept that ban, the US was denying the interrelationship.

This charge is, of course, without merit. The US is addressing all issues in their interrelationship. In fact, as I explained earlier, the offense-defense relationship is one of the principal elements on which our position focuses. Rather, it is the Soviet approach which violates the interrelationship agreement by insisting that the space issue be considered in isolation and by setting resolution of that issue—on the basis of their demands—as a precondition to serious negotiation on the other issues.

The second Soviet charge is that, by failing to agree to their proposal for a "space-strike arms" ban, the US is reneging on its commitment to prevent an arms race in space. This charge is also groundless; preventing an arms race in space is exactly what our strategic concept envisages. The term "arms race" connotes a runaway competition between two sides, with each piling weapon upon weapon in an unbridled manner. What we propose is just the opposite—a stable transition to greater reliance on defensive systems, should new technologies prove feasible, managed jointly by the United States and the Soviet Union. Defenses would be introduced at a measured pace, in conjunction with progressively stricter limitations and reductions in offensive nuclear arms. The result would be that the two sides would have far fewer weapons which would use space as a medium for delivering nuclear destruction. The approach we foresee would be designed to maintain at all times control over the mix of offensive and defensive systems on both sides, and thereby increase the confidence of the sides in the effectiveness and stability of the deterrent balance.

STEPS BACKWARD

Beyond pressing these baseless charges, pushing their moratorium proposal, and showing little interest in exploring US proposals, the Soviets provided little of substance and few specifics during the round. Of the specifics that were offered, many represent steps backward from previous Soviet positions.

For example, in the START negotiations in 1983, the Soviets expressed willingness to consider permitting some deployment of air-launched cruise missiles. Their current position calls for a ban on all cruise missiles

with range exceeding 600 km, regardless of basing mode.

In the INF talks in 1983, the Soviets offered a freeze on SS-20 deployments in Asia; now they insist on having no constraints on these systems, which, due to their range and mobility, are capable of striking Europe in addition to threatening US friends and allies in Asia. Similarly, in 1983, the Soviets showed considerable flexibility regarding the US aircraft on which they would require limits; now they have returned to their earlier and far more strident demands.

In the January meeting in Geneva, Gromyko acknowledged that limits on strategic defense research would not be verifiable; the Soviets nonetheless now propose banning such research.

Also in the January meeting, Gromyko included the Moscow ABM system in the Soviet definition of "space-strike arms;" at the negotiating table, the Soviets specifically excluded that system from their definition and thus from their proposed ban.

Finally, in the anti-satellite talks of 1978-79, the Soviets acknowledged that neither limits on ASAT research nor a comprehensive ASAT ban would be verifiable; in Geneva, they called for a ban on such research and for a total ASAT ban, again despite the lack of verifiability.

In sum, the Soviets took a predictably hard line in the first round. Their principal objectives were clearly to discredit the US SDI research program and to put maximum pressure on it by holding progress in all other aspects of the negotiations hostage to US acceptance of the Soviet proposal on "space-strike arms."

GORBACHEV'S WARSAW SPEECH

In his speech last Friday in Warsaw, Mr. Gorbachev stated that the Soviet Union has "already suggested that both sides reduce strategic offensive arms by one-quarter by way of an opening move." He also held out the possibility of deeper mutual cuts.

Mr. Gorbachev was apparently referring to the Soviet proposal in the START negotiations of 1982-83. That proposal would have reduced strategic nuclear delivery vehicles by one-quarter from the initial level permitted under SALT II, from 2400 to 1800. However, the Soviets did not accompany it with a proposal for reductions in those measures of strategic capability which would, in fact, enhance strategic stability, the number of ballistic missile warheads and ballistic missile destructive capacity.

Contrary to the public impression created by Mr. Gorbachev, the Soviet Union has made no proposal for reductions in strategic forces in the new negotiations, nor has it even gone so far as to resubmit its old START proposal. In fact, during the first round, the Soviets refused to respond to efforts by US negotiators to ascertain details of their position on this subject.

We would, of course, welcome and examine seriously any concrete Soviet proposals for substantial, balanced, and stabilizing reductions in strategic forces. As I said earlier, US negotiators have broad authority to negotiate approaches that meet the interests and concerns of both sides. We encourage the Soviet Union to substantiate Mr. Gorbachev's claim by introducing a proposal in the next round at Geneva.

FUTURE PROSPECTS

The Soviet behavior in the first round was consistent with their historical approach to arms control negotiations. That strategy is to combine tough bargaining at the negotiating table with a hard-nose public propaganda campaign designed to undercut support for US and NATO positions and force unilateral concessions. Until they realize that their propaganda campaign is not working—that is, that US concessions will not be made unilaterally—the Soviets will not be prepared to negotiate seriously.

Accordingly, in the near term, we can expect the Soviets to continue to protest publicly about the SDI program and alleged US designs to accelerate the arms race, especially by spreading it into space. We can also expect them to sustain their efforts to drive a wedge between the US and its allies, particularly by exploiting any perceived signs of weakening in allied unity on defense or arms control issues.

What we in the West must do to bring the Soviets to a more serious tack is, in parallel with our efforts at the negotiating table in Geneva, demonstrate the political will and ability to maintain the necessary capabilities effectively to deter them. When the Soviets recognize that they will attain no exploitable military or political advantages from their military buildup, and that unilateral concessions will not be forthcoming, they may then welcome a serious discussion of how we could take practical steps toward our agreed objectives of preventing an arms race in space and terminating it on earth, limiting and reducing nuclear arms, and strengthening strategic stability.

When the Soviets are ready for such discussions, we believe those talks can be productive. Although the issues in Geneva are many and complex, we are convinced that we have formulated good proposals that provide a sound basis for mutually beneficial agreements. Moreover, the President has provided our negotiators unprecedented flexibility to explore various avenues toward the equitable outcomes we seek. Accordingly, despite our realization of the difficulties ahead, we are hopeful that, with patience and persistence, we can achieve a result that will benefit all mankind.●

RECREATION USER FEES

● Mr. McCLURE. Mr. President, the various administration proposals for the budget resolution made some rather elaborate assumptions as to the amount of additional revenues which can be obtained from an increase in recreation user fees. I do agree that some increase in such fees is possible and, in fact, should be obtained. The resolution, however, assumed an overly simplistic formula that the Federal Government should recover 25 percent of administrative costs. That assumption fails to consider the varieties of public lands, the purposes for which such lands are managed, or the real impact of an increase across the board. The assumption also is defective in that it asserts that visitor use would remain constant regardless of the size of the fee when in fact revenues are a product of the fee times the number of people paying the fee.

Anyone familiar with the Metro system here in Washington should realize that ridership is a function of the price and the convenience and that, at a certain point, as the cost increases, the ridership declines—the net revenue results seem always to be less than the projections. The resolution assumption also fails to consider the increase in costs associated with collections. It conveniently ignores how we are going to police one-third of this Nation so that citizens pay their fair share for watching the Sun go down across the public domain.

There are certain areas where the Federal Government has invested funds to provide recreational facilities, and it would be rational to expect those who take advantage of those facilities to pay a reasonable fee for their use. I do object to any suggestion that we are going to start charging fees to cross Federal land, hunt or fish, walk or hike, or watch the clouds. We are not going to institute a sliding scale in the Tetons where people pay 10 cents for every elk they happen to see nor are we about to deputize the Florida panther population to begin a pay-or-be eaten campaign. The Federal Government does a variety of things for the American people as a whole, for this and future generations, and those obligations should be borne by the people as a whole.

I am certain that by now everyone has seen the April 15 gray covered document entitled Senate/Administration Deficit Reduction Plan. It compares the National Park System with Disneyland and the San Diego Zoo. That would certainly come as a surprise to Teddy Roosevelt, John Muir, and Stephen Mather. OMB will probably next propose that we put golden arches in Canyonlands. The truth is that we do not encourage the Federal Government to provide significant services in the national parks, but rather use concessionaires.

The Federal Government through the National Park Service has one mission only for the National Park System and that is:

> To conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

Indiana Dunes, Zion, the Grand Canyon, Gates of the Arctic, Yellowstone, Yosemite, Redwoods, Vicksburg, Gettysburg, Shiloh, Shenandoah and Great Smokies, Haleakala, Canyonlands, Crater Lake, North Cascades, and the list goes on. These are not Disneyland nor are they the San Diego Zoo.

It is true that some increase in the entrance fees can and probably should be obtained over a period of time and based on careful studies. Those fees, however, should be based on park management, not on some gnome's magical formula based on administrative costs. We are not about to recover 25 percent of the salary of the Secretary of the Interior from visitors to the national parks, nor are we about

to take pennies from schoolchildren visiting Independence Hall to cover 25 percent of the costs of OMB analysts.

Aside from the national parks, the Federal Government does provide some recreational facilities at places such as Corps of Engineers and Bureau of Reclamation sites, and I agree that, where the Federal Government has invested in more than minimal facilities or health and safety, the user should be expected to pay a fair share of the cost of such facilities. There is no administrative cost, however, to the Federal Government to have the Sun daily set in the West, nor should we charge people to watch it. We are not going to start metering homes in Jackson Hole and charge them for a sunset.

Mr. President, given the problems with the budget, I do not have a problem with the Committee on Energy and Natural Resources being asked to consider and report legislation addressing recreation user fees. I wish that a full and comprehensive study could be initiated first rather than developing revenue estimates first, but this is not the only area of the budget where numbers dictate over sound policy.

It would be nice to have the results of the newly created Outdoor Recreation Resources Review Commission, but it may be possible to achieve some increase in revenues over a period of time without turning our natural heritage into Disneyland and without dramatically increasing personnel and costs to enforce and collect those fees. I want to make it clear that we are not going to initiate hunting or fishing fees, but intend to focus clearly and specifically on those sites and areas where the Federal Government has actually made an investment for the direct benefit of visitors.

Although the Committee on Energy and Natural Resources and its predecessor, the Committee on Interior and Insular Affairs, has carefully considered the questions surrounding fees over the years before OMB lifted the veil from our eyes, we will need considerable help in achieving anything which is remotely rational. We will need far more if we must actually achieve the OMB assumptions underlying the resolution. We will need considerable help in determining how the citizens of Massachusetts can best contribute to the administration of Cape Cod National Seashore, short of borrowing a shark from the San Diego Zoo to collect entrance fees. It will be difficult to patrol the entire beach, but perhaps we will be able to make suntans circumstantial evidence of failure to pay the fee. I look forward to the wise suggestions from the senior Senator from Alaska on the proper level for fees to use the transportation system at Denali, and of course Gateway, Golden Gate, Cuyahoga, and Jean Laffite, not to mention Chattahoochee, should all make their contribution. I am certain that the delegations from those States which have Corps of Engineer reservoirs will be lining up to cosponsor the legislation to impose user fees on those sites, so I am optimistic that the committee will have no problem in implementing the assumption underlying the resolution.

It probably is only fair to mention some of the present limitations of existing law which will have to be reexamined. Out of the many years of legislation dealing with fees, we have agreed that fees should not be charged to the blind or permanently disabled.

We have also agreed that there should not be a charge for drinking water, wayside exhibits, roads, overlook sights, visitors' centers, scenic drives, toilet facilities, picnic tables, or boat ramps where specialized services such as lifts are not provided. Turning the George Washington Memorial Parkway and Beach Drive into toll roads should help us considerably, and we can probably expect to see that proposal emerging in the near future since it would be in the finest traditions of the Office of Management and Budget.

Present law also requires the Corps of Engineers to provide at least one primitive campground without fee at sites where camping is permitted. Fees are also prohibited at campgrounds if there are no toilet facilities and drinking water as well as reasonable visitor protection. I have not heard anyone offering an amendment to fund improvements in these campgrounds so that fees could be collected under existing law.

I think it is also fair to mention that user fees are annually adjusted to reflect the fair value of such services based on similar services in the area offered by either private or public entities. That does not portend a very elastic demand for Federal facilities to radically increase fees.

Had it been possible, I would have offered an amendment which would have decreased the amount of revenues which would have been achieved. My intent would not have been to eliminate the subject from serious consideration, but rather to set a mark which would have had some chance of enactment. We do a considerable disservice not only to the American people but also to ourselves and this institution when we make promises which we are unable to keep or when we set goals which are unreachable.

I would be willing to attempt to achieve approximately half of the assumption over 3 years. I do not know if that would be possible until we have had hearings. I do not know whether a simple increase in fees would result in any additional revenues at all. Perhaps if we eliminated concession operations and directly collected fees we would, at least on paper, show some increase, but I wonder what the cost would be for the Federal Government to provide the kind and level of services which concessions now provide.

In offering my amendment I would be simply attempting to inject some sense of reason into this process. I do not hold out any great hope that we would be able to accomplish what my amendment would have proposed. I can assure you that the assumptions in the resolution are impossible. I am willing to try to accomplish some revenue enhancement, I am not prepared to tilt at windmills.

In addition to the setting of fees, there is the problem of collections. I assume that no one is proposing to hire thousands of new Federal employees to collect the fees, so we will need to consider alternatives. One alternative, of course, is that, since almost everyone in the United States at some time or another uses Federal areas, we could annually collect a fee of about $1 which would entitle everyone to use the facilities as provided by current law, paying an additional amount at those areas where significant services are provided.

To make it easy, and to avoid needless paperwork, we could take advantage of existing Federal agency support and collect the $1 from families on or about April 15 of each year. That approach would allow American people to not only contribute to the direct-use benefits but also to the indirect benefits which accrue to all generations from the preservation of our natural heritage. I realize that would be a radical suggestion, completely at variance with current practice, but it does have some appeal to those of us who have dealt with this issue over the years.

I do have one question which I almost fear to ask and, that is, If we plan to recover 100 percent of the salary of the Secretary of the Interior as administrative costs on the mineral leasing receipts returned to the States, and also recover 100 percent from timber receipts, and 25 percent from recreation fees, will we need to increase the salary of the Secretary to cover our savings? Or maybe if he takes a pay cut we will not be able to balance the budget—this is all very confusing.

I do look forward to the overwhelming support which the implementing legislation for the amendment is certain to elicit. I would like to encourage my colleagues to carefully consider the various sites within their States which have no national significance, or which at best are only junior varsity versions of Disneyland, and let me know their names so that we can expeditiously report our legislation.●

NOMINATION OF JOHN NORTON

● Mr. DECONCINI. Mr. President, last night, the Senate finally confirmed the nomination of John Norton to be Deputy Secretary of Agriculture. Frankly, it was about time. It is a discredit to this body when a very few isolated Senators hold up a nomination, rather than debate its merits on the floor and proceed through regular channels. John Norton will be an outstanding Deputy Secretary of Agriculture.

John is more than familiar with the problems farmers face today. He is a graduate of the University of Arizona's School of Agriculture and has practical experience in the field as president and chief executive officer of J.R. Norton Co., which farms over 25,000 acres in Arizona and California. He is also past chairman of the United Fresh Fruit and Vegetable Association which is illustrative of the confidence his colleagues in the industry have in him. In addition, John and his wife, Doris, have devoted their time and efforts to numerous civic and charitable causes in Arizona, the West, and nationwide.

The Senate has a responsibility to advise and consent on Presidential nominees, and it is a responsibility we should not take lightly. When one Senator seeks to hold up a nomination for petty reasons, completely unrelated to the nominee, then that Senator is abusing Senate procedures. Recently, the Washington Post carried an article in which they detailed the problems surrounding the Norton nomination. The opening paragraph of that article states: "The failure of John R. Norton III, a wealthy conservative farmer from Arizona, to win Senate confirmation as Deputy Secretary of Agriculture is becoming one of the political mysteries of the year." But the article goes on to say it is not really a mystery and it has nothing to do with Mr. Norton.

Mr. President, I wish to commend this body for finally confirming John R. Norton III to be Deputy Secretary of Agriculture. I hope that in the future, qualified nominees such as Mr. Norton will not be subject to this sort of petty politics. I would also like to commend John Norton on his staying power and his commitment. It is not often you find someone as qualified as John Norton who is willing to leave his prosperous business to work for the Government. John is making a great sacrifice and I believe he will make an enormous contribution in resolving the difficult problems confronting the agricultural sector today.●

MEMORIAL SERVICES FOR THE 16,500 ABORTED BABIES TO BE HELD ON MAY 19, 1985 IN MONROVIA, CA

● Mr. HUMPHREY. Mr. President, there will finally be a memorial service for the 16,500 aborted babies, whose bodies were discovered more than 3 years ago in a repossessed shipping container in Woodland Hills, CA.

It is fitting that we set-aside time to mourn these unborn children and so on May 19 at 1:30 p.m., the American Holocaust Memorial Committee will hold a nondenominational memorial service and will dedicate a plaque on a site at Live Oak Memorial Park in Monrovia, CA as a permanent reminder not only of the 16,500 but of all the more than 17 million innocent unborn human beings killed since the 1973 Roe versus Wade decision.

This memorial will carry no names; these children died nameless, but each will be remembered by our spiritual adoption.

The memorial simply reads:

In memory of all who were deprived of human love and robbed of life through abortion.

It might be noted that 16,500 is approximately 4 days worth of abortions performed in the United States, and about 28 percent of the 58,022 Vietnam war dead and missing who are memorialized here in Washington. In the time that it took to read this short speech three more of the unborn have lost their lives to abortion.

I ask that we remember these innocent unborn children on May 19 and offer a silent prayer on their behalf. It's the least we can do for so many who have lost so much. It is in this spirit that I ask that my message to the mourners of these 16,500 unborn children be entered into the RECORD.

WASHINGTON, DC, *May 16, 1985.*

My Fellow Friends Of The Unborn,

It is through prayer that I join you in this memorial service held in honor of these 16,500 unborn children who were victims of our nation's abortion nightmare. I share your concern and love for each and all of the little ones who died so tragically.

We can only hope that somehow this event will contribute to an awakening of our nation's moral consciousness so that we may reflect on the inhumanity of abortion. When we rid this nation of this horror, which I am certain will occur, we will truly breathe life into the meaning of all human beings' right to life, whether they be born or unborn. My thoughts and prayers are with you and those we mourn, today and always.

Sincerely,

GORDON J. HUMPHREY.●

FINANCIAL STATEMENT OF SENATOR DOMENICI

● Mr. DOMENICI. Mr. President, I would like to submit for the RECORD my personal financial statement for 1984. While such is not required by law, and the financial disclosure statements that all Senators must file are not as detailed as the one I submit, this release of my financial statement is something I started with my election to the Senate in 1972 and is a tradition I intend to continue as long as I serve in this Chamber. Therefore, I submit for the RECORD the following statement:

SENATOR PETE V. DOMENICI'S 1984 PERSONAL FINANCIAL STATEMENT

FEDERAL INCOME TAX INFORMATION FOR 1984

Income: $109,923—$72,675 Senate salary; $75 wife's salary; $14,319 Income from family partnership of D&V Investments (one-half inherited on death of my mother); $360 Capital gains on sale of stock; $21,780 Honoraria.

Itemized deductions and taxes: Total taxes of $34,000 (including $25,273 federal taxes, $8,727 in New Mexico state, local and property taxes.) Deductions include $7,630 in interest expenses, $1,475 in contributions, and $8,727 in state, local and property taxes.

PERSONAL NET WORTH STATEMENT

Gross assets: $4,000 cash on hand; $8,000 household goods (no change from last year); $7,000 automobiles (1984 Ford Tiempo, 1981 Oldsmobile, 1973 Plymouth Duster); $455,000 real estate and family holdings ($225,000 [1] home in Rockville, Maryland; $35,000 interest in Kent Investment Company's real estate in Rio Puerco, NM; $195,000 [2] family partnership of D&V Investments; $1,490 mausoleum crypt, $4,508 IRA account with Senate Employees Credit Union).

Liabilities: $80,000 real estate mortgage on Rockville, Maryland home; $5,000 unsecured loan at Sunwest Bank of New Mexico; $12,100 liability on real estate contract for vacant lot adjoining family partnership property at 4th and Lomas NW in Albuquerque. $479,908, assets; $97,100, liabilities; $382,808, total net worth.●

SECURITIES SAFETY AND SOUNDNESS ACT OF 1985

● Mr. DOMENICI. Mr. President, I would like to place in the RECORD part III of "The Roaring Eighties." The past two episodes of our true-to-life saga by Steven Brill in the American Lawyer left us wondering what would happen to Icahn's magic offer to take over Phillips Petroleum.

The answer to this and other questions will be revealed in the conclusion to our sequel. How much money is really made by investors in dummy corporations? How much money is made by investment bankers cutting the deals? Why is the SEC taking no action. Will the dreaded Drexel agree not to bother Phillips in return for a hefty payment? And how effective is the pill in fending off a takeover?

[1] I have increased the estimated value of the Rockville home without a formal appraisal based upon sales in the neighborhood of similar homes.

[2] I have increased the estimated value of the family partnership without a formal appraisal based upon value of additional lot purchased and my estimated evaluation of enhanced value of partnership.

Unlike other soap operas, the ending to this dream is not altogether a happy one. And it is becoming more and more familiar as other firms become targets. The morale is: What gets leveraged up today with lightning speed could crash just as fast tomorrow. I hope we will learn our lesson from "The Roaring Eighties."

I ask that the final pages of "The Roaring Eighties" be printed in the RECORD.

The material follows:

[From the American Lawyer, May 1985]

THE JUNKMEN SELLETH

How can a man who's prepared to spend only $350 million in cash (the cost of his original stock purchases] bid more than $8 billion for a company? Enter Drexel Burnham, the investment banking house where in *The Roaring Eighties* people seem to be having the best time of all. Drexel has led the way in promoting the current darling of *The Roaring Eighties*, the high-risk, high-yield, "junk" bond. The firm's clients include what one top lawyer calls "a murderers' row of takeover raiders"—Saul Steinberg, Carl Lindner, Victor Posner, the Bass brothers, the Canadian Belzberg family, Irwin Jacobs, Sir James Goldsmith, Pickens Icahn. When a raider is stalking prey, he forms a dummy corporation or partnership, for which Drexel sells these high-yield bonds, which will ultimately be secured by the assets of the company to be taken over. In other words, it's a mechanism for a hostile leveraged buyout: The raiders buy the company with the company's anticipated cash flow.

If the takeover doesn't go foward, the subscribers to the bond still get a commitment fee (paid by the raider) for having pledged their money. In the Icahn-Phillips deal these fees were three-eighths of one percent, or $37,500 for each $10 million pledged.

Drexel's take in these deals is high, even by investment bankers' porcine standards. In the Icahn-Phillips deal, Drexel's retainer letter calls for the firm to be paid $1 million the moment Icahn uses its feared name in any public statement, then 2 percent of all the financing it arranges—or more than $80 million—if the deal goes through. Moreover, if the deal does not go through, Drexel is to get as much as 20 percent of the incremental profit Icahn makes from selling his stock to anyone else, plus one-eighth of one percent in its own commitment fees for the money it has lined up, which would be as much as $5 million.

The question of whether Drexel can in fact peddle $4.05 billion in junk bonds for Icahn's deal, let alone whether Icahn really wants to raise the money and take over the company or is just bluffing to force a higher bid from the company or from someone else, is high drama—and the subject of Phillip's newspaper ads attacking the Icahn offer under the headline "Is Icahn For Real?"

The issue is sharpened on February 15. With just a week to go before the vote on management's recapitalization plan, which Icahn has declared the shareholders must reject in order to take his plan. Icahn announces that in just 48 hours Drexel has lined up $1.5 billion. Where have these communications come from? The very people who have done other Drexel junk-bond raids (such as Steinberg and Lindner), a host of arbitrageurs (though not Boesky) with an obvious interest in seeing Icahn's deal or some new deal go through, plus the kind of high-flying insurance companies or savings and loan institutions that have been Drexel's base in selling these junk bonds.

To explain why these people signed on for junk bonds in a company that was going to be neck-high, or higher, in debt, our camera takes us to Drexel's Beverly Hills sales floor (its West Coast office is the center of junk-bond financings), where eager young bankers under the tutelage of junk-bond impresario Michael Milken, 38, are pushing $1.5 billion worth of bonds in units as small as $3 million.

We then cut to their various customers across the country. Several tell us they're in it because they believe in Icahn's stated plan to liquidate $3.7 billion in assets to slash some debt and to pay down the remaining debt through better management of the remaining assets. They like the yield on their junk bonds—it ranges as high as 16 percent a year, depending on the seniority of the debt—and they're confident Icahn can run the company in a way that will see the debt paid. Can they really believe that Carl Icahn—whose management experience consists of running a staff of 30 and supervising two partially liquidated midsized companies he's taken over in recent years—is going to run a corporation larger than Xerox, Boeing, Westinghouse, or ABC? Can they really believe he's going to get into Bartlesville (where he has promised to keep the company headquarters but where prayer vigils and other demonstrations have been organized against him by fearful, resentful townspeople), let alone know what to do when he gets there?

Others aren't as sure as that about how Icahn will fare, but they feel good about Drexel's assurances, all oral, that there will be a good secondary market in the bonds, or perhaps a fast payoff because Icahn just might liquidate the whole company if he gets control. Still others want to support Icahn's bid because they like the commitment fee and have shares in Phillips that will rise if the recapitalization plan is defeated, and, they're being told by Drexel, a show of support for Icahn will help defeat the plan. At least one whom I interviewed seems to be in it just for the easy commitment fee; he claims he's received tacit assurances from Drexel that the deal is not likely to go through, and therefore he's not likely to have to put the money up. (A Drexel spokesman declines all comment "on our solicitation activities, although you can assume we conduct ourselves in a responsible manner.") Finally, there are Icahn's compatriots—such as Steinberg, who according to a deposition had bought Phillips stock; they apparently have signed on for some variety of the above reasons, along with a desire to help someone who will help them with their next deal.

How can Drexel's people be on the phone offering these securities with no written material? We cut to the SEC, where everyone is sleeping. "These are sophisticated investors" a source in the enforcement division at the SEC says, when roused by our question. "They know what they're doing."

We cut to lines of customers waiting for Ohio savings and loans to open in the wake of the chain reaction that savaged their confidence in the banks after Home State Savings Bank—controlled by Icahn's sometime partner Marvin Warner—was so unsophisticated that it went under investing in the E.S.M. treasury securities Ponzi scheme that erupted in March. Then we cut to crowds outside the Financial Corporation of America's savings and loan branches in California; until it almost went under, Financial Corporation was controlled by Charles Knapp, who is now committing $100 million through a second entity he controls, to Drexel's Phillips-Icahn junk bonds. The point is perhaps a bit indirect, but it is real. There are more than a dozen savings and loans, insurance companies, and other financial institutions on whose health millions of Americans depend signed up for Drexel's Phillip-Icahn junk bonds. How sophisticated are the people who run them about gauging risk? Are they so high on the everything-works euphoria of *The Roaring Eighties* that risk evaluation has for them become a sissy's game?

Watching it all, a cynic in the audience might even conclude that, as one lawyer puts it, "it's all just a ring that lines up bluff money with Drexel at the center. Today they go in for a bluff for Phillips, with Icahn as the front guy. Last year it was Disney with Steinberg"—indeed, many of the same investors drew the same type of commitment fees in Steinberg's Disney greenmail deal—"and next month it'll be Lindner. And then it'll be Charlie Knapp," he adds.

But why hasn't Icahn gotten the full $4.05 billion? Because, he says, he doesn't want to pay the additional commitment fees until he knows that management's recapitalization plan has been defeated. As it is, he has already paid $7.5 million in commitment fees—three-eights of one percent to the junk subscribers, plus one-eighth of one percent to Drexel. His proxy solicitors are now urging him to up the ante and show more strength; so is Boesky, who is "calling every day," Icahn later testified. But Icahn sticks at $1.5 billion. Is he bluffing? Is Drexel bluffing?

While we're on the subject of bluffing, the camera shifts to the SEC, where once again we find everyone asleep. How else can one explain why this fiasco is being allowed to continue, with Icahn calling this whatever-it-is of his a tender offer? That in itself seems like fraud worthy of an immediate SEC move to enjoin Icahn from proceeding. This isn't a tender offer; it's a request for a gratuitous option. For Icahn has conditioned his offer on obtaining financing, yet he has not obtained the financing, nor is he out there trying to get it, or even promising to try to get if. He's basically saying, "Let me hold your stock for a while and use it to get credibility, while I decide whether to gather financing and go ahead with this."

Wachtell, Lipton has sent letters to the SEC arguing this point, but to no avail. "We figured the people involved in this deal are sophisticated people and can make that decision," our SEC source later explains, ignoring the clear case law that says that a tender offer, to be called such, must be a contractual offer that is binding on the party making the tender offer to buy the shares if the shareholder tenders them, subject only to conditions that are not within the offerer's control.

DEFENDING THE ADVERSARY SYSTEM

In these and other legal battles, Icahn is defended not only by his lawyers at New York's 41-lawyer Gordon, Hurwitz, Butowsky, Weitzen, Shalov & Wein (plus Oklahoma and Delaware counsel), but also by 280-lawyer Paul, Weiss, Ritkind, Wharton & Garrison. "You go after a company and Marty Lipton starts throwing all kinds of chairs at you, which offends me," says Gordon, Hurwitz partner Marc Weitzen, re-

ferring to Wachtell, Lipton's host of efforts at injunctions, as well as the poison pill gambit. "It also makes the litigation heavier than a firm our size can sustain." Weitzen adds.

"Once it was clear that the thing started to get messy and we'd need a lot of litigators. I knew we needed a large firm." explains Icahn. "Paul, Weiss had already been retained by Drexel Burnham, so since they were up to speed I figured I'd use them instead of Weil, Gotshal [& Manges], whom I usually use when I need a big firm. And they were very eager to do it for me so it worked out fine."

In motions seeking temporary restraining orders against Icahn. Wachtell, Lipton and local counsel Crowe & Dunlevy of Oklahoma City and Boone, Smith, Davis & Hurst of Tulsa attack him as a "fast-buck" takeover entrepreneur and greenmailer. Paul, Weiss answers that Icahn's plan represents the best interests of all shareholders, that all the things Phillips is doing to stop him are tricks intended to "rig the forthcoming vote [on the recapitalization plan] with false, misleading, and deliberately confusing proxy material," and that Phillips's "ad hominem attacks [on Icahn] are still another effort to disrupt the proxy process." The camera pans in on the Paul, Weiss letterhead affixed to these arguments.

Then the camera flashes back three years, to another Paul, Weiss brief in another Icahn takeover fight, this one involving Dan River, Inc. But the picture is confusing. For in this brief the firm is accusing Carl Icahn of racketeering and market manipulation, and comparing his announcing his intention to purchase Dan River stock to his buying an "ad in a Danville newspaper . . . stating that he is about to enter Dan River's mill and break the windows . . . unless he is paid $1,000." The brief goes on to argue that Icahn's "entire pattern of buying into companies and threatening a liquidation or a fight for control unless the company pays defendants a premium for their stock (or obtains a white knight to do so), is extortionate or manipulative, and thus constitutes a pattern of predicate RICO acts, from which profits were derived that now are being invested in Dan River. In short, defendants are using tainted money to 'infiltrate' Dan River and should be enjoined from further so doing."

Another flashback shows Paul Weiss partner Max Gitter tearing into Icahn at a Dan River deposition and, as four different sources remember it, being nearly obsessed with what in his view was the dire threat to lawful business affairs that Icahn represented. As one of the four puts it, "Max was emotionally involved in this case and in what a bad guy Icahn was. I swear to you he was foaming at the mouth at one point, ranting and raving about Carl."

Gitter declines comment on his work against Icahn, except to say that he acted as an advocate for client Dan River "ethically and in ways consistent with the Code of Professional Responsibility's requirements" that a lawyer not make frivolous claims, and that he was not "emotionally involved."

Gitter is not involved in his firm's current efforts on Icahn's behalf, but two other Paul Weiss partners active in the Dan River defense against Icahn are now working for Icahn on the Phillips deal. The camera now comes back to them. The first, Moses Silverman, tells us that "other than to acknowledge that I went both ways, I don't want to comment." The second, Arthur Liman, says that these kinds of shifts are "routine aspects of the adversary system." Asked how the firm can argue for the bona fides of Icahn's investment today when in the past it took the position that the money he had amassed was gathered by extortion and, therefore, tainted and forfeitable under the racketeering statute, Liman replies. "Our willingness to argue on behalf of any client is what strengthens the adversary system. We do it because it contributes to the system."

Asked if he minds having lawyers on his payroll who have called him an extortion artist and racketeer, Icahn shrugs and says, "Frankly, I wasn't aware of any of those charges. Who cares? Lawyers H— say whatever they're paid to say. You can't let it bother you. It's all part of this game."

THE MONEY MEN

It is February 21, a day before the vote is scheduled on the recapitalization plan. The rules are that Phillips must get a majority to vote *for* its plan; a non-vote, therefore, will effectively count for Icahn's side.

Remember, Icahn is not only soliciting proxy votes from shareholders against the plan, he also has a tender offer pending, which he has now changed to $60 in cash, financed by those junk-bound buyers, for about 45 percent of the shares, and what he says amounts to $50 in notes (which will be lower than even the junk bonds in payment priority) for the rest of the shares. But his tender offer is conditioned on the recapitalization plan being defeated. As for Lipton's poison pill, Icahn has come up with a relatively simple antidote. When soliciting for the tender offer, he's also soliciting for the shareholders' consent to remove the board of directors and replace it with his own board without holding a shareholders' meeting. In other words, if he gathers a majority of the consents, he can have a meeting with himself and install his own board. And, he promises, his new board will immediately abolish the poison pill, enabling his tender offer to go forward.

With Phillips saying its recapitalization offer is worth $53 and Icahn saying it's worth $42, and Icahn saying his offer is worth $55 and Phillips saying it isn't worth anything close to that, and with outside people saying both sides are stretching the truth, where's the SEC?

While we're at it, why hasn't the SEC come down in Phillips for claiming that Icahn intends to "bust up" Phillips and move the corporate headquarters, when for the record he has promised not to move out of Bartlesville, and said he'll sell $3.6 billion in assets as compared to the Phillips plan to sell $2 billion? And why hasn't the SEC made Drexel Burnham file as part of Icahn's group? Drexel, after all will share heavily in Icahn's profits if he resells the stock. Drexel is responsible for formulating the plan in the first place, and is wholly responsible for financing it. Drexel is wholly responsible for gathering the group who will buy not only all the junk bonds, but also most of the small amount of stock there will be in the company, and who already own enough of the stock to constitute a group for SEC filing purposes. Besides, Drexel, like Icahn, has two representatives on the slate of directors Icahn proposed in his proxy fight.

We cut back to SEC headquarters. The lights are out.

Now we cut to the electorate who unaided by any apparent SEC policing will decide the Icahn-Phillips fight. We learn that by now, with all the arb activity, some 60 percent of Phillips shares are controlled by institutions. (The latest studies indicate that institutions now have about 50 percent of all the voting power of shares traded on the New York Stock Exchange.)

Who are these "institutions"? Some are the arbs, who have probably accumulated or been stuck with about 5 percent that they are ready to vote unquestionably for Icahn. The rest, says one exasperated Phillips lawyer, are "a bunch of brainless thirty-year-old kids who will do anything for the quick buck because their goddamn jobs depend on beating the Standard and Poors every month or every week or every hour."

Actually, some are in their forties and fifties. Other than that, the assessment isn't far off. In random interviews of a dozen institutional money managers who own Phillips stock, I find by and large a surprisingly uninformed and just plain dumb group of voters. Most don't understand the basics of Icahn's offer or Phillips's recapitalization plan, let alone the poison pill or the consent process that would overturn it. But the real point is that they don't care. They just want the company "kept in play," as the phrase goes, meaning they want all options kept open. So they're voting againt the recapitalization plan.

In fact, they're voting against the plan on the proxy cards that Phillips is sending out asking for a vote for the management plan, rather than waiting for Icahn's cards to arrive. (An injunction had briefly delayed his solicitation.)

The Phillips lawyers and bankers had figured they had the vote locked up, for with the poison pill in place the shareholders had only one alternative—the recapitalization plan. If they voted it down, the pill would seemingly protect Phillips from other offers, and the stock would sink back into the $30s.

Yet as the Phillips people are counting their own proxy cards and seeing all the surprising negative votes—it's unprecedented for one side to have so many of its own cards cast against it—they begin to see that they have misread the electorate. Sure, some public pension funds had announced that they had banded together as a kind of new shareholder rights group and vowed to fight poison pills, implying they'd vote against the recap plan. But would private institutions do it, too? Would the establishment help Carl Icahn at the expense of the Phillips management?

"I didn't care about that poison pill. I didn't even understand it," one 33-year-old private pension fund manager will recall after the vote. "And I didn't believe Icahn's bid. What I cared about was that I have a meeting twice a month with my boss and he goes over my portfolio. I needed to keep that company in play to get money out of it."

Others do vote on principle—against Phillips. "We just have a policy here, plain and simple," one California money manager will later explain, in remarks echoed by several others. "We now vote against any types of poison pills or other such devices. We believe shareholders ought to have the right to vote on all offers. And we also saw the part of the recap plan that would put the company in control of the employees' trust as a total management entrenchment device. You know, we're not going to take that stuff anymore, and those investment bankers and lawyers who get millions of dollars to come up with this garbage ought to be thrown out on their asses."

Even pension funds whose own managements have come under attack by raiders

now find themselves voting against the recap plan on this basis. "It's just not in keeping with any concept of fiduciary duty to allow a poison pill or anything else that stops an offer," one such manager will later say. (This man thought Phillips was seeking consents with the recap plan to enact the poison pill, and that Icahn had already raised all $4.05 billion.) What if an offer isn't in the long-term interests of the shareholders? "I'll define the long term," he will reply. "That's my job. And I define it as jumping to the best opportunities I find every day."

THE SETTLEMENT

It is now Sunday evening, March 3, 1985. Phillips, having adjourned the shareholders meeting several times since the February 22 zero hour—ostensibly to count the vote but really to come up with a new strategy—has just announced a) that it lost the recap vote by about 9 million shares and b) that, contrary to its prior vows that its first offer was its final offer, and that its second, sweetened offer was its really final offer, the company is now offering another sweetener to the recap plan. The market will later decide that this plan—which excludes the scheme to put the controlling interest in the company in the hands of an employees' trust—may really be worth $53.

Now Icahn, accompanied by Liman of Paul, Weiss and just a few others, is locked in negotiations at Morgan Stanley with Lipton, lots of other lawyers, and the Morgan Stanley and First Boston bankers. Phillips has vowed not to pay Icahn greenmail, but paying his expenses is another matter. Icahn claims his expenses are $30 million. Phillips will only pay $25 million, because that's the most its people estimate Icahn really will have to spend for lawyers, for Drexel (about $15 million), for investment bankers at Donaldson, Lufkin ($1.3 million), and for commitment fees ($7.5 million). Icahn won't budget. True to form, he's happy to sit there for eight hours, until 3:00 a.m. Yet he leaves with only $25 million.

"It was one of those moments of truth that make this a tough game." Icahn will later recall. "I thought hard about pressing ahead with my offer. But I was looking at a thirty-seven-million-dollar risk"—$12.5 million in the commitment fees necessary to draw down the remaining $2.55 billion in junk-bond commitments, plus the $25 million on the table for expenses—"and I just didn't see it. So I walked away with the twenty-five million."

Assuming Icahn had bought $7.5 million shares at an average price of $46, and could now cash in on a Phillips offer that really was worth $53, he also walks away with a ten-week trading profit of $52.5 million.

There is one other item on the bargaining table besides Icahn's expenses: standstill agreements. In the days before *The Roaring Eighties*, these agreements involved people like Icahn promising not to bother the company again for five or ten years. Now there's a new twist: The target wants the same promise from the dreaded Drexel. But Drexel doesn't want to give it. That separate negotiation also goes on into the morning. In the end, Icahn agrees to an eight-year standstill. Drexel agrees to three years.

"Drexel is in one sense the most powerful financial institution in the country today," says Lipton a few weeks later, acknowledging that he now believes Drexel could indeed have raised all $4.05 billion for Icahn's offer. "So these standstills are very important."

EPILOGUE

"Lipton lost the vote by putting in the poison pill." Icahn asserts, sitting in his office a week after the settlement. "That turned everybody off. He doesn't understand that the country is now controlled by money managers who aren't going to put up with that."

"Lipton seems to agree. "Carl's right," he says. "We just completely misread this. We didn't appreciate how these institutional voters just cared about keeping the company in play. They don't understand that the pill can be a legitimate protection device.

"What we saw in Phillips was the Woodstock of shareholder rights," says head Drexel M&A man David Kay. "It's the first time the shareholders stood up and really said, 'Don't tell us what you're gonna do and what it's worth. The marketplace is telling us what it's worth and we're not gonna do it. Ten years ago," Kay continues, "if the institutions didn't like the company, it sold the stock. They didn't say, 'I challenge you.' This is an evolution no different than all sorts of other evolutions." Kay concludes, "with an activist role being taken by people who used to be pussycats."

As for the preventive effect of the poison pill, "I never even thought about that," says Icahn "It was always clear I could do a proxy fight or a consent to get a new board to remove it, and I think everyone understood that. The pill didn't mean a damn thing to me."

Is Icahn right about the pill being ineffective in a fight like this? "Oh sure," says Lipton. "I've been saying and writing that all along—that the pill doesn't stop takeovers and does nothing to stop a guy who wants to hang in more than thirty days with a consent or proxy fight. That's why I could never understand what all the fuss was about the pill. It can only be used to stop shareholders from being stampeded quickly by a front-end loaded offer."

In fact, Lipton points out, the emergence of Drexel Burnham in the Phillips deal and the firm's apparent ability to raise billions within days make the pill virtually irrelevant, because with Drexel a raider can bid for all the shares rather than do a front-end deal that offers cash to some shareholders and debt to others. The raider can finance an all-cash offer with Drexel's junk-bond debt.

Is Drexel virtually unlimited in what it can raise in junk bonds? "The size of the transaction isn't the issue," agrees Kay. "The key variable is the disparity between the real value of a company and its market price. That's what drives these transactions."

What we have, then, in *The Roaring Eighties* is a world in which companies' fates are controlled by Drexel Burnham and the institutional money managers. "That's right," says Lipton. "And that's what I'm worried about."

Nonsense, says Icahn. "A company that keeps its stock up and is managed well doesn't have any problem. . . . If it's really making long-term investments that are worthwhile, then it should be out there explaining that to stock analysts, and the stock will stay up. . . . When you offer a company a premium for control," he explains, "it's an insult to management. You're saying the stock is worth more in your hands than in theirs."

In one sense that seems to ignore the obvious: that the value of one share of a company is always worth less than the value per share of gaining control of a company. Still, Icahn has a point. What does indeed drive transactions like his—which typically involve stock price premiums far higher than the normal premium paid for control—is the perception that someone else can manage the assets of a Phillips better than Douce and company can, be it by improving asset deployment, improving productivity, or selling off all or some of its parts. That's also what drives more traditional mergers and acquisitions, such as the recent Capital Cities Communications—ABC deal: Capital Cities management (and Wall Street, too, given the stock market reaction to the deal) believes it can make more of a ABC than current management has.

It's also true, though, that a large share of such acquisitions haven't worked out that way—such a large share that the word "synergy" ought to be banned from the business vocabulary by the SEC as prima facie deception. Many of these deals are simply monuments to the egos of the acquirers. But here, too, Icahn and his friends, who claim to personify the marketplace at work, are ready to step in and help: They'll bust up the merged company.

In doing so, they find support from free market academics and economists, including those on the President's Council of Economic Advisers. The council's latest report to the President contained a section on takeover fights, which said in part:

The best assurance an incumbent management has against a successful takeover attempt is a stock price that is high relative to outsiders' estimates of . . . potential value. . . . Managements that allocate capital to higher valued uses, operate efficiently, and adopt capitalization structures responsive to prevailing financial market conditions are less likely to be subject to takeovers. . . . Contests for corporate control are part of a larger merger and acquisition process that plays an important role in the economy's adjustment to changing market circumstances. . . . [T]here is no economic basis for regulations that would further restrict the . . . process. Indeed, the economic evidence suggests that existing regulations impose restraints that may deter potentially beneficial transactions. . . . The evidence also suggests that abusive practices in the market for corporate control are limited largely to tactics employed by target managements who, in opposing takeover bids, defeat or deter tender offers at the expense of their shareholders and the economy. . . .

Lipton now so passionately takes the opposite view that his firm, he says, has recently decided not to accept business from takeover raiders (including previous client Jimmy Goldsmith) who specialize in what Lipton calls "the two-tiered, bust-up, junk-bond takeover." Sure, Lipton's position could simply be a cagey marketing strategy (like Goldman Sach's decision two decades ago never to work for a hostile acquirer) that gives his firm a new leg up on the loyalty and business of Fortune 500 CEOs. But that's beside the point. Whatever the reason, Lipton has become a prime advocate on one side of what should become a fascinating, important public policy debate, and he has articulated perhaps the most cogent arguments against the laissez faire attitude toward Icahn-like forays that seems to be prevailing in The Roaring Eighties.

In a recent letter to Senator William Proxmire, Lipton spelled it out this way:

These takeovers move assets into hands that profit by cutting off the allocation of part of the revenues produced by the assets to research and development and capital im-

provements and instead divert those revenues to paying the debt incurred to acquire the assets. One can analogize the situation to a farmer who does not rotate his crops, does not periodically let his land lie fallow, does not fertilize his land and does not protect his land by planting cover and creating wind breaks. In the early years he will maximize his return from the land. It is a very profitable short-term use. But inevitably it leads to a dust bowl and economic disaster. . . . Day after day the takeover entrepreneurs are maximizing their returns at the expense of future generations that will not benefit from the research and development and capital investments that takeover entrepreneurs are forcing businesses to forego. . . .

Today institutional investment managers . . . will accept any premium over the current stock market price rather than hold a portfolio investment for appreciation in the future. . . . Since most of the large publicly held companies are effectively controlled by institutional investors, the coordinated activity of takeover entrepreneurs and institutional investors now presents an immediate threat of takeover and liquidation to every large public company that sells in the stock market for less than its liquidation breakup value. . . .

Lipton was arguing in his letter against legislative proposals mandating that shareholders get a right to vote on any takeover offer, free from management's interference. But, again, if a company is worth more broken up, why shouldn't the shareholders be able to break it up by voting for a proposal from an Icahn? And why shouldn't they be able to decide if their long-term interest is better served by sticking with the company because its R&D program is so promising? And how is it that some companies, such as IBM, are selling at high multiples of earnings because, presumably, the stock market sees its long-term value?

"Research and development," huffs Icahn. "These companies that are so desperate for protection aren't doing that. Their idea of research and development is buying businesses they don't know how to run that will add to their power and their egos. Why should their shareholders have management be a depository of funds for something like that?"

"I'm telling you, these raids are the best thing that's happened to corporate America that I can remember," echoes Pickens. "It's bringing an awareness and accountability into the system," he adds, noting that managements of other oil companies who, like Douce, own only small portions of their company's stock are now starting to "worry about the shareholders more than they ever did."

But it should be remembered that both well run and poorly run companies are susceptible to raids, for when the supporters of the laissez faire approach argue that the neutral marketplace ought to decide who gets taken over and how, they seem to forget that the country's tax and accounting rules are such that the market isn't exactly neutral. To take two obvious examples:

First, corporations that invest in research and development have to account for that expense in the year they spend it, thereby depressing earnings. The same corporation that pays a premium to take over another company can amortize the premium over 40 years, thereby depressing earnings only minimally.

Second, the fact that corporate income is taxed to corporations and dividends are taxed to shareholders creates a double tax. This makes payment of interest (on junk bonds, for example), which is tax deductible to the corporation, roughly twice as easy (assume a 50 percent tax rate) for a corporation as paying dividends. Thus, a company that can pay shareholders a rate of return of 7 percent on dividends can just as easily pay 14 percent interest; and an investor, who will have to pay taxes on either the interest or the dividend, will prefer a debenture at that higher rate to a dividend at the lower rate. In that sense even an Exxon (which has been buying its stock vigorously on the open market, reportedly at least in part to lessen takeover dangers) or an IBM could be vulnerable. "Take the vigorish out by stopping double taxation," says Joe Flom, "and you end one of the major encouragements for these leveraged deals."

Others, like Flom, don't buy Lipton's client-pleasing answer that the solution is to let all managements, good and bad, use any and all tactics in Lipton's medicine bag to keep shareholders from deciding on tender offers. But they don't think that tinkering with tax and accounting regulations is enough, either. Martin Davis, the chairman of Gulf & Western Industries, a company Icahn attacked in 1983 just days after founder Charles Bluhdorn died of a heart attack, points out that with so many other markets—from antiques, to money funds, to new forms of corporate debt instruments, to options, to options on options—now competing for funds that might otherwise be invested in the stock market, "most stocks sell below their market value and certainly below their control value and bust-up book value." In Davis's view this makes almost any company susceptible to a raid and forces every management to worry about its current stock price, often at the sacrifice of long-term investments. "Carl's right about a lot of managements, but the fact is he can go after almost any company and make a profit by putting it into play," Davis maintains. "Something fundamental has to be done, but I'm not sure what, because I believe in the free market. I just also believe the country can't survive if the stock market is just a casino full of short-term players."

Icahn, who was bought out of his Gulf & Western position in an open-market transaction arranged by Davis at the market price, credits Davis (whom he recalls as "one guy willing to negotiate with me one on one") with boosting his company's stock. He says Davis has in fact, made the company far less susceptible to a raid, though not immune, by doing "exactly the kinds of things managers should be doing. . . ."

Flom, who is one of Davis's lawyers, doesn't agree that more basic reforms are necessary. He "generally believes," he says, in the conservative Chicago School view that after "some turmoil with some of these raids by people like Carl," the market will adjust, and stock prices will go up, because assets will have been redeployed more efficiently, and companies that haven't been raided will have a prospective-takeover premium added to their price that will deter more raids.

"It seems to me that turmoil is what you want to avoid in an economic system." counters investment banker Felix Rohatyn of Lazard Freres. "And what these Chicago School people don't understand is that turmoil is very destructive for everyone. When you have an environment like we seem to have now where those rolls of the dice can be so wild because there is so much leverage with so little proper evaluation of the risk behind that leverage, because everyone seems to think that any type of leverage works, you're creating a very dangerous situation."

Leverage, indeed, seems to be the culprit. It's leverage, after all, that seemingly allows anyone to tally up the control value or the bust-up value versus the stock market value of a company the size of Phillips and then offer a stupendous premium. Some people, especially greedy people, will almost compulsively take just about any risk that opportunity—in the form of the credit markets—allows, and they'll find others to follow along. In the Roaring Eighties everyone seems to be having a terrific time offering and accepting any and all such opportunities. And they're not terribly interested in listening to anyone who wants to spoil the party with homilies about proper risk evaluation or the fact that risk really does increase with reward.

Yet what seems eminently do-able, even magically wonderful today, looks quite the opposite when the economy turns down and the corporations that are supposed to throw off the cash to service these junk bonds dry up. What today gets leveraged up with lightning speed could unravel just as fast. We can see it in the E.S.M. government bond failure which revealed a classic Roaring Eighties get-rich-quick leverage scheme; and we ought to be able now to see how it could happen tomorrow on a much larger scale if one of these Icahn-type deals goes through and the target company fails.

"What bothers me most about what's happening today." adds Rohatyn, "is that there's this mutually reenforcing cycle of everyone telling everyone else that anything will work. That this is a foolproof way to get rich. There just shouldn't be so many rolls of the dice. . . .

"It's contagious now," Rohatyn continues. People like Pickens are on the covers of national magazines. And when I go to colleges to lecture on municipal finance or public policy, the kids all want to hear about how investment bankers are creating all this wealth. . . . We have to put the brakes on this go-go mania. We have to take a look at controlling all of this from the credit and tax side."

Who won the Phillips fight?

Douce and the target management seem to have won; they became the first oil company management under attack to preserve their independence. But who's to say the company can't be raided again." Icahn, for one, thinks this is entirely likely.

The shareholders seem to have won, in that in exchange for their old stock they got a package that seems to be worth $53, or close to it, whereas last fall their old stock was trading in the $30s. But a few years ago that stock was over $60; and studies show that many companies that successfully resist tender offers at extremely high premiums later see their prices rise higher than the premiums that were offered. Moreover, as Rohatyn puts it, "It's not so clear that the (new) Phillips stock will be worth what they said it would be worth," meaning that the package may not be worth $53 after all.

Icahn clearly won; he made $52.5 million in ten weeks. *And for his victory there are no qualifiers.*

True, there may have been a few "moments of truth," as he likes to describe his poker game. Yet like the man who made those mysterious late-night phone calls—who, if not for the fact that Icahn testified under oath that he really exists, could be a

metaphor for the ethic of *The Roaring Eighties*—Icahn didn't have to do much or show much of his hand.

"I'm fervently against poison pills and believe that shareholders have a right to control their destinies, but what especially bothers me about Icahn is that he did this with mirrors," says Rohatyn. "No one really could believe he intended to run Philips Petroleum. . . . And when you have too many people getting rich on mirrors, you have to stop and take a look at where we're going. Because it could all unravel."●

FARMERS' DAY PRAYER

● Mr. BOREN. Mr. President, the letters and phone calls continue to pour into my office expressing my constituents' concerns over the persistent farm crisis. A day never goes by that I am not reminded of the many struggles of keeping the family farms going day after day, obtaining credit in time to plant seasonal crops, and for the first time for some farmers, juggling a full-time job in town with farming in the wee morning hours and late in the evening.

As the Agriculture Committee this week begins marking up the farm bill, I think it is particularly fitting to share with all of you a beautiful prayer that I received in the mail several weeks ago. The prayer was written by Dr. Jene Miller for a farmer's day banquet in Altus, OK, several years ago and is entitled, "A Seed-Time and Harvest-Time Prayer." This composition is so revealing of the necessity of the farmers' own survival to ensure that the rest of the world never has to go without. It is the farmers' unfailing faithfulness and commitment to tilling the land that assures us that we, as Americans, will never have to go hungry. Now, we remain hopeful of finding more workable means of distributing this wealth. I ask that the prayer be inserted in the RECORD at this point.

The prayer follows:

God of galaxies and atoms, we come to this hour to confess our need. However fair the skies or rich the soil, without farmers to mediate between the dirt of our fields and the protein of our bread, we will starve. Without their faithfulness in storm and drought, in labor and indebtedness, we will not eat. For all their silent sacrifices and vigilent labors we give thanks to Thee and for them. In the name of all the hungry world, we implore Thy blessings on them that they may continue to enable us to obey our Lord's own command to feed the hungry, clothe the naked, and heal the sick. In Jesus' name, Amen.●

GROUND-BREAKING FOR A NEW MUSEUM OF AFRICAN AMERICAN HISTORY

● Mr. LEVIN. Mr. President, on Tuesday, May 21, there will be a ground-breaking for the new Museum of African American History in Detroit, MI. This is an important event for Detroit and for the Nation because since its founding, the Museum of African American History has provided national leadership in the field of African American museum affairs as well as having given more than 3 million people the opportunity to visit its exhibits and participate in its activities.

The Museum of African American History has had as its goal the preserving, restoring, and publishing of materials related to the black experience. Through these efforts, the museum has provided young and old alike with the opportunity to learn more about their community, their heritage, and themselves. By doing so, we are all better aware of the contributions of African Americans to our national life and share in the sense of pride that we all feel at the achievements of our fellow citizens.

The success of the museum has given rise to the need for additional space. That is the reason for the ground-breaking ceremony next Tuesday. The new museum will have five times as much space as the current facility. This expansion will allow the museum to increase its potential for preserving and promoting a greater awareness of African American history.

Current plans also call for a mobile studio, including audio, photo, and video facilities, which will travel throughout the country gathering artifacts and personal life stories for the museum. In turn, the museum will be the national repository for this memorabilia.

I would also like to commend the efforts of so many in the Detroit community who have made the construction of a new site for the museum a real possibility. In particular, the students, teachers, and administration of Detroit's public schools should be congratulated on their successful buy-a-brick campaign. The Museum's Million-Dollar Club has also already raised more than $100,000, and the city administration has contributed $2.3 million. These represent the kinds of community based efforts of which we as a nation can be proud.

There is nothing quite like this project happening anywhere else in our Nation. This project represents a total commitment from the entire community and I commend the effort put forth by so many to enrich and enhance Detroit's cultural resources.●

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications which have been received. The classified annexes referred to in two of the covering letters are available to Senators in the office of the Foreign Relations Committee, SD-423.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, May 10, 1985.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 85-10 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to Spain for defense articles and services estimated to cost $20 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Lieutenant General, USAF,
Director.

Attachments.

TRANSMITTAL NO. 85-10

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Spain.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$16
Other	4
Total	20

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: A quantity of 60 MK 46 MOD 5 torpedoes, 12 exercise heads and associated spare parts.

(iv) Military department: Navy (AHN).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: 10 May 1985.

POLICY JUSTIFICATION

SPAIN—MK 46 MOD 5 TORPEDOES

The Government of Spain has requested the purchase of a quantity of 60 MK 46 MOD 5 Torpedoes, 12 Exercise Heads and associated spare parts at an estimated cost of $20 million

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Spain and enhancing the defense of the Western Alliance.

The sale of these torpedoes and continuing support to the Government of Spain is

part of the close cooperation in defense and other matters under the 1976 Treaty of Friendship and Cooperation between Spain and the United States. The Spanish Navy intends to utilize these torpedoes on frigates and shipboard helicopters as an anti-submarine deterrent.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Honeywell, Incorporated of Hopkins, Minnesota.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Spain.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

TRANSMITAL No. 85-10

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

3. (U) Release of this technology is within the classification guidelines for disclosure to Spain as stipulated in National Disclosure Policy (NDP-1).

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, May 13, 1985.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN. Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 85-31 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Switzerland for defense articles and services estimated to cost $209 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Lieutenant General, USAF,
Director.

Attachments.

TRANSMITTAL No. 85-31

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Switzerland.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$168
Other	$41
Total	$209

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: A quantity of 12,000 BGM-71D TOW II missiles, 3,000 (inert) practice missile rounds, 400 AN/TAS-4A night vision sights, 400 components to assemble TOW II launchers, and ancillary equipment. The sale may involve co-production of selected releasable components of the TOW II weapon system by the Swiss.

(iv) Military department: Army (VEY).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: 13 May 1985.

POLICY JUSTIFICATION

SWITZERLAND—TOW II MISSILES

The Government of Switzerland has requested the purchase of a quantity of 12,000 BGM-71D TOW II missiles, 3,000 (inert) practice missile rounds, 400 AN/TAS-4A night vision sights, 400 components to assemble TOW II launchers, and ancillary equipment at an estimated cost of $209 million.

This sale will further the foreign policy goals of the United States by helping to assure the defense of a friendly country whose avowed neutrality has long contributed to the security of Western Europe. It is consistent with the U.S. policy of assisting other nations to provide for their own defense and security. Switzerland has traditionally based its independence on a strong and ready military establishment.

This weapons system is required by the Government of Switzerland to replace its 30 year plus weaponry and to improve its Army and Militia Military. Switzerland will have no difficulty absorbing this system and this sale will increase the military defense capability of Switzerland. The sale of this equipment and support will not affect the basic military balance in the region since comparable or identical weapons already exist there.

The sale may involve partial co-production of selected releasable components of the TOW II weapon system by the Swiss. The exact components and the degree of co-production will not be known until some time in 1985 since the Swiss are currently conducting production feasibility studies for this effort. During co-production, the Swiss may release technical data and drawings to the Eichweber Company of the Federal Republic of Germany for the sole purpose of integration of the Talissi system to the modified day sight and launch tube. Some launch tube shells and modified day sight shells may also be transferred to the Eichweber Company on a temporary basis. The total value of the transfers is estimated to be not more than $50,000.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractors will be the Hughes Aircraft Company of Tucson, Arizona and the Emerson Company of St. Louis, Missouri.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Switzerland.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

HEAD START'S 20TH ANNIVERSARY

● Mr. GLENN. Mr. President, this year marks the 20th anniversary of Project Head Start—a program that provides America's children the change to overcome the obstacles of poverty. In 1965, President Lyndon Johnson launched Head Start with the hope and dream to alleviate the tragedies of disadvantaged children who face a lack of medical, emotional, nutritional, and educational services that many take for granted.

Today there is a Head Start center in nearly every county in the United States. Although performance standards are set at the Federal level, it is the local community that actually molds the program to enhance its own particular cultural and ethnic characteristics.

Few would dare dispute Head Start's success. Since its inception, some 9 million children and their families have benefited from this project. We all know that the early years of childhood are critical to a child's development and it is essential that we reach out and give these youngsters a helping hand at a time when they need it most. The very existence of Head Start illustrates our commitment to the well-being of our greatest investment—our greatest hope—our children.

It is imperative that we reach out and encourage them to explore, to create, and to dream. Most importantly, though, the Head Start children are surrounded by parents and teachers who believe in them and love them.

Twenty years of Head Start success stories could fill volumes of books and these successes cannot be measured merely in dollars alone. Rather, they must be judged by the mental, physical, and educational development of those children who might otherwise have fallen short of their potential through no fault of their own.

On behalf of the 9 million children who have received assistance from Head Start and those children who have yet to benefit, I want to congratulate those who have contributed to the creation and development of this outstanding program. When many today are quick to remind us of the shortcomings of Federal programs, let us recall that this program sought to serve and did. It is my hope that Congress will continue to support one of our Nation's most valuable programs so that disadvantaged children can truly get a "head start" in life.●

A TRIBUTE TO DONALD P. EDSON

● Mr. BOREN. Mr. President, it is with a great deal of sadness that I note the tragic death of Donald P. Edson, vice president for legislative services for the Farm Credit Banks of Wichita, KS, in a three-wheel recreational vehicle accident near Mulvane, KS, on April 28, 1985.

In writing about his death, Hurst Laviana, staff writer for the Wichita Eagle-Beacon, commented that "Whether his audience was a group of Congressmen in Washington, DC, office building or a farmer in the middle of a Kansas wheatfield, Donald P. Edson was at his best when he was talking agriculture."

As one who discussed agriculture with him many times, I can attest to that. Edson spent many hours in my office discussing the problems of agri-

culture and attempting to find answers to the problems facing farmers. He was concerned not only about farmers' financial problems but also their other problems. He was always open to any idea and carefully considered differing points of view.

In the Eagle-Beacon article mentioned above, Mrs. Edson, his widow, pointed out that "He could talk to anyone. He could listen to anyone and understand. He could go through a whole room full of people and just light up." One of his former employers was quoted as saying, "He was the type of person you felt you knew all of your life—whether it was a high-ranking Federal official or a farmer out on his land. He had the ability to communicate with all types of people. He never met a stranger." Monte Reese, a vice president of public affairs for Farm Credit Banks, is quoted as saying that what made Mr. Edson unique was his ability to combine extensive knowledge of agriculture with a strong ability to communicate. "He could really talk their language and they could understand him," Reese said. "Don had a very solid understanding of agriculture. He was a very energetic and dynamic leader in Kansas agriculture. He was a very popular speaker at agricultural meetings—in Kansas and around the country."

Edson was raised on a livestock and grain farm south of Topeka and received a degree in agricultural education from Kansas State University. He was a farm director at WIBW Radio and TV in Topeka for 10 years, joining the Federal intermediate Credit Bank in January 1970. He took the position of vice-president for legislative services at a time when most would have shunned the responsibility. With tremendous pressure facing the Farm Credit System as a result of record farm foreclosures, he rose to the challenge of finding a solution which would keep the system solvent.

Surviving Edson are his wife, Lynne; two sons, David and Doug, and a daughter Darla; his parents, Burton and Elma Rene; a brother, Dean; and two sisters, Jan Haun and Karen Edson. To them and his other relatives we extend our deepest sympathy. All of us have lost a good friend and a fighter for our farmers.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

REPEAL OF CONTEMPORANEOUS RECORDKEEPING REQUIREMENTS—CONFERENCE REPORT

The PRESIDING OFFICER. The hour of 11:30 a.m. having arrived, the Senate will now return to the consideration of the conference report on H.R. 1869, which the clerk will report.

The legislative clerk read as follows:

The conference report on H.R. 1869, an act to repeal the contemporaneous recordkeeping requirements and the Tax Reform Act of 1984, and for other purposes.

The PRESIDING OFFICER. The time on this conference report is limited to 40 minutes, with 30 minutes under the control of the Senator from Ohio [Mr. METZENBAUM] and 10 minutes under the control of the Senator from Oregon [Mr. PACKWOOD] or his designee.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to address myself not only to the conference report but to an issue that is not in the conference report but that was in the report language of the Senate Finance Committee.

Before doing so, however, I think we ought to make the record clear as to what this conference report does and does not do. According to the conference report, the measure before the Senate will reduce revenues by $107 million between fiscal year 1985 and fiscal year 1987. It is, therefore, subject to a point of order under section 311 and another point of order under section 303 of the Budget Act.

Mr. President, I do not intend to make the parliamentary point of order because I feel confident that it would be overruled by a vote of the Senate, but in order to make it clear to one and all that, indeed, the point that the Senator from Ohio is making is correct and that we are taking away $107 million in revenues, I will pose a parliamentary inquiry: First, would the Chair sustain a point of order raised under section 311 and, second, would the Chair sustain a point of order raised under section 303 of the Budget Act?

The PRESIDING OFFICER. This conference report does result in a loss of revenues for fiscal year 1985, and because the Congress is below the revenue floor for this fiscal year, the conference report would give rise to a point of order under section 311 of the Budget Act. Because the conference report raises revenues for the fiscal year 1986, a year for which there is no first concurrent resolution on the budget, the report would violate section 303(a) of the Budget Act.

Mr. METZENBAUM. And, therefore, be subject to a point of order under section 303 as well?

The PRESIDING OFFICER. That is correct.

Mr. METZENBAUM. Mr. President, I do not intend to raise those points of order, but I want to emphasize that while everybody is out making speeches about balancing the budget, the U.S. Senate is going to pass this conference report by unanimous consent this morning, probably without a rollcall, and we are going to increase the Federal budget deficit by $107 million over 3 years.

Now, that $107 million I want to point out is over and above the amount that we do not even know the facts about, and that is the reduction in revenues that will be produced by those corporate executives who will not have to pay much in taxes on their corporate aircraft travel.

It is a fact—and I will get into that soon—that they will still pay something, but the amount they will pay, according to my calculations, is probably closer to one-fifth to one-eighth of what they would otherwise be paying.

Now, the matter of aircraft used by corporate executives is not technically part of the conference report before the Senate. It has to do with the report language the Finance Committee wrote. It was not possible for us to deal with the issue on the floor because it is not in the bill. But it was one of those arrangements that you make around here where in the committee report the Finance Committee tells the Treasury Department to do what they want, and the Treasury Department, always ready to accommodate, particularly when it has to do with the loss of revenue from corporate executives who do not have to pay their fair share of the taxes, went even further than the Finance Committee had asked.

Now, to explain the issue, in the Deficit Reduction Act of 1984, there was an effort to increase revenues by closing some tax loopholes. Now, that was significant. The Congress indicated its willingness to close some tax loopholes, an area some of us had been addressing ourselves to for some time but our arguments pretty much fell on deaf ears. Even though David Stockman and the President and others said they should be closed, every time we attempted to close them, some lobbyist came along and was pretty much able to talk them out of it.

One area of the 1984 bill had to do with the taxation of fringe benefits that are not statutorily tax exempt.

The 1984 Tax Act amended the Tax Code to provide that fringe benefits are among the items specifically included in gross income. According to the "General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984" put out by the Joint Committee on Taxation, the Tax Code was amended "as a clarification that the fair market value of any fringe benefit not covered by an express statutory exclusion is included in the recipient's gross income."

Now, existing regulations provide that corporate executives who use corporate aircraft for personal purposes

must include in their taxable income the fair market value of such use.

Now, is that not a reasonable thing to do? If you are using it for your personal benefit, should not that corporate executive be required to report that as a part of his or her income?

Fair market value is determined under all the facts and circumstances, or, alternatively, by using a safe harbor test, which is the cost of chartering a similar aircraft. That certainly is fair.

How does it work under the present law? If, for example, an executive were to travel on vacation from Washington to Miami and back on a corporate Lear-35 jet, current regulations would require that $8,150, the cost of a charter for that same flight, be added to his or her taxable income.

That seems simple as such. But the National Business Aircraft Association believes that the new regulations were too complex for the average chief executive officer to comprehend. That according to a bulletin "Is This Tax Simplification?" by Mr. Joseph Burnside, manager of Government relations. Mr. Burnside wrote:

> But the granddaddy of them all, when it comes to considering the various uses of business aircraft and value to the employee, is when the boss uses the plane for personal transportation. Now, admittedly, this is the sort of fringe benefit which should result in the imputation of addition income but, at the same time, is not something which occurs every day. Indeed, most aircraft are used strictly for business reasons. However, the IRS has seen fit to address this subject also.

The article went on to say:

> Further, the time spent by the IRS auditor in ascertaining whether the regulation is complied with will certainly divert the agent from more productive pursuits, such as looking for abusive shelters or, indeed, dreaming up new ways to "simplify" the tax code. Is this tax simplication?

To him, I answer, yes, indeed, that is tax simplification. As a matter of fact, it is more than tax simplification. It is a matter of what is right and what is wrong. But the lobby is pretty good. The lobbyists did their work on the committee, and the big business executives made their point.

Lo and behold, who came to the rescue? That sturdy defender of Government income, our Senate Finance Committee, came to the rescue.

The committee adopted report language in reporting S. 245 that directed the IRS to revise its regulations for valuing trips on corporate aircraft. You have to understand that there was nothing in the bill having to do with corporate aircraft. It was totally blank on that subject. It was as though they included something in the bill having to do with the WIC Program or something having to do with some totally unrelated program. But they wanted to take care of their friends, the corporate executives who fly planes for personal use.

After all, is it not important to the Nation's interests that we permit corporate executives to use the planes to go to the World Series or to some important football game, or to take their families on a vacation to some warm climate?

So the language of the report reads:

> The committee also intends that the Treasury is to substitute the following safe-harbor valuation rules with respect to employee flights on employer-provided, noncommercial aircraft that constitute taxable fringe benefits, for the valuation rules with respect to such benefits that are currently set forth in temporary regulations.

It then went on to say that if the plane weighs more than 10,000 pounds, the value for a control employee—those are the executives—would be the first-class fare that would have to be reported; and the value for other employees would be the value imputed to the parents of an airline employee, which would be half the coach value. If the plane weighed more than 6,000 pounds but not more than 10,000 pounds, the value that would have to be included so far as the executive is concerned would be the coach fare, and the value for other employees would be three-fourths the value imputed to the parents of airline employees.

If some within the hearing range of my voice want to know why the language is "parents of airline employees," or if some who read the RECORD want to know why that language is used, they will have to go back to the Finance Committee and ask them; because, frankly, I do not understand the meaning of that language.

If the plane weighed 6,000 pounds or less, the control employees—the executives—would have to pay taxes on one-half the coach fare; and for those who are not executive employees, the amount that would have to be included would be half the value imputed to the parents of the present employee.

I must say that it probably is unimportant what "parents of employees" means, because, in the last analysis, you can count on the Treasury Department. They got the message. The message was clear and simple: "See to it that the corporate executives and others who use private aircraft do not have to pay anything in taxes, or see to it that they have to pay very little in taxes, when they use the corporate planes."

I am aware that it is unusual for me to be standing here to debate an issue that is not before the Senate. As a matter of fact, I am not even debating it, because it is obvious that the chairman of the Finance Committee and the majority leader are not on the floor—and I have no fault to find with that. But I believe it is so shocking, so indecent, so inappropriate, and so wrong for the Finance Committee and the U.S. Senate to be telling the Treasury Department to reduce taxes of corporate executives who use private planes, that unless I raise the issue in this manner—and I cannot get it to a vote, because there is not a parliamentary procedure to do so—unless the issue is made, unless the matter is at least brought out into the open, it will slide through, as many other issues slide through in Congress.

However, although it is unusual to debate an issue that is not before the Senate, it is just as unusual for the proponents of a tax cut to avoid placing it before the Senate. What wonderful speeches my colleagues make about trying to balance the budget! There is nothing more important, they say on the television programs and the radio programs and to the newspaper editors and before the crowds to whom they speak. But the fact is that everybody is going along with what the Finance Committee did; and the Treasury Department, which is so anxious to find a new tax bill for the President, is going along, losing revenue, for no reason whatsoever.

Instead of making it possible for this issue to come before the Senate, the proponents inserted in the committee report language that was never before the Senate and insisted that the Treasury provide favorable treatment.

When I raised this issue on April 3 on the floor of the Senate, the chairman of the Finance Committee said:

> This issue is not before us in any way, shape, or form—it is not before us in any report language in the House bill, it is not in the House bill, it is not in the amendment before us—it is not in any report language that is before us. There is nothing that we have done or are going to do that has any effect, at the moment, on the Treasury regulations that impute the value of flying on airplanes. The committee report that contains that language is not part of the pending committee amendment.

I offered an amendment to H.R. 1869—that is this particular legislation—that would have expressed the sense of Congress that existing regulations regarding the valuation of personal travel on private aircraft by corporate executives should not be changed. That measure failed on a 46 to 47 vote, with eight members of the Finance Committee supporting the amendment.

However, the Treasury Department got the message. They understood what some Members of Congress wanted. They did not worry about the 46 who said, "We don't want it." They were going to take care of the 47 who did. Besides, the business lobbyists were doing their job, and doing it well, at the Treasury Department.

So the Treasury Department did not heed the concerns that 46 Members of the Senate expressed. Treasury caved. They caved so fast that they fell over themselves to be sure that they took care of the corporate executives.

51-059 O-86-36 (Pt. 9)

So, when the measure reached the conference committee, the Treasury had in hand a letter addressed to Majority Leader DOLE:

To confirm our discussions regarding the establishment, by Treasury regulation, of a revised safe harbor method of valuing personal flights * * *.

I ask unanimous consent that a copy of that letter be printed at this point in the RECORD.

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

HON. ROBERT DOLE,
Senate Majority Leader,
Washington, DC.

DEAR MR. LEADER: This letter is to confirm our discussions regarding establishment, by Treasury regulation, of a revised safe harbor method of valuing personal flights by employees, their families and their guests on company aircraft.

The safe habor values would be as follows.

Maximum certified takeoff weight of the aircraft	Includible value for a control employee	Includible value for a non-control employee
25,000 lb or more	200 percent of first class.	Safe harbor value for airline parents.
10,001 to 25,000 lb.	150 pecent of first class.	Safe harbor value for airline parents.
6,001 to 10,000 lb	Coach	75 percent of safe harbor value for airline parents.
6,000 lb or less	50 percent of coach.	50 percent of safe harbor value for airline parents.

In approximating first class fare or coach fare, we would use the Standard Industry Fare Level (SIFL) rates or another appropriate method.

The term "control employee" in the content of private employment shall be defined to mean the following:

1. Board-elected or shareholder-elected officers. However, the number of employees who are control employees under this test shall be limited to the lesser of (a) 1 percent of all employees or (b) 10 employees.

2. The top 1% in terms of compensation, based on the prior year. The number of employees who are control employees under this test shall not exceed 25 employees. In addition, no employee earning under $50,000 shall be a control employee under this test.

3. All employees owning an equity interest of 10% or more of the employer, with appropriate attribution rules.

4. Guest and family members of the employees listed above.

In addition, we will, by regulation, create a special rule which applies where 50% or more of the regular passenger seating capacity of that plane as used by the company is occupied by individuals whose flights are primarily for the employer's business and whose flights are thus excludable from income. In such circumstances, a personal flight by an employee, his spouse, or dependent children (generally, as such terms are defined under section 132 of the Code) in any of any of the remaining seats is deemed to have no value. This special rule is not based on general valuation principles but rather on legislative intent. Thus, if other guests of an employee (such as an employee's parent) fly in the remaining seats for personal purposes, the employee would have income. In these situations, if the safe harbor is used, the employee would be taxed at the non-control employee rate. For purposes of determining passenger seating capacity, any seat occupied by the flight crew shall not be counted except when an employee is flying the plane in which case his seat shall be deemed a passenger seat.

We believe this fairly represents our discussions and provides a workable regulatory framework for taxing personal use of company planes.

Sincerely,

RONALD A. PEARLMAN,
Assistant Secretary (Tax Policy).

Mr. METZENBAUM. Now, Mr. President, you have to understand what I am saying. What I am saying is that the chairman of the Finance Committee told this body that there is nothing before us in any report language in the House bill, not in the Senate bill, not in the amendment and it is not in any report language, there is nothing we have done or going to do that has any effect at the moment on the Treasury regulations, and yet the Treasury did not read that part of the remarks of the distinguished chairman of the Finance Committee on the floor. What they did is they acted promptly, so promptly that they had a letter in hand. They were busy with the President's tax revision program, but they had time to get out this letter and that letter indicated:

DEAR MR. LEADER: This letter is to confirm our discussions regarding the establishment, by Treasury regulation, of a revised safe harbor method of valuing personal flights by employees, their families and their guests on company aircraft. The safe harbor values would be as follows:

And then it proceeds to indicate that.

Then the letter goes on to say:

In addition, we will, by regulation, create a special rule which applies where 50 percent or more of the regular passenger seating capacity of that plane as used by the company is occupied by individuals whose flights are primarily for the employer's business and whose flights are thus excludable from income.

I will not read the balance of that paragraph which is included in the letter that I put into the RECORD.

But I will point out that the Treasury Department was so anxious to be accommodating that they actually went even further than the Finance Committee requested.

Under the proposed new regulations, excutives flying on planes weighing more than 25,000 pounds will pay taxes on twice the value of a first-class ticket and on planes weighing between 10,000 and 25,000 pounds 150 percent of a first-class ticket.

In computing the first-class and second-class fares, the IRS will use the standard industry fare-level rates published by the Department of Transportation.

How do these coach rates compare to actual fare-market costs of domestic coach air travel? The Treasury Department was very anxious to be accommodating, and if you look at the facts, you will see that the SIFL rates, the standard industry fare-level rates, would provide that on a New York to Chicago trip that figure would be $129 instead of the actual coach rate of $258. The New York to Miami rate would be $168 instead of the actual fare of $280. And the Chicago-San Francisco rate would be $251 as compared to $398.

Mr. President, I know that my time is getting close to running out, and I know there seems to be no one fighting for the floor. I ask unanimous consent that the Senator from Ohio may be accorded an extra 5 minutes.

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

Mr. METZENBAUM. What does this mean for the corporate executive traveling round trip on vacation trips between Washington and Miami? Instead of paying taxes on $8,150, he or she would pay taxes on $1,128, about one-eighth of the $8,150 figure. In addition the corporation is allowed to deduct its cost for providing this special perk for the executive, a total that in this case would come to $2,679.

So while we are standing here making our speeches about balancing the budget and doing all the press work that we do about balancing the budget, we are making it possible for an executive who may be making $300,000 or $400,000 or $3 million or $4 million, not to pay taxes on $8,150 which is what is provided for under the present law, but only pay taxes on $1,128.

What a great effort on our part to balance the budget.

When we made an effort to find out what this would actually cost, we were not able to determine whether the loss to the Treasury would be $10 million, $25 million, or $100 million.

Let me point out this is just the week after the Senate indicated it was prepared to eliminate 17 programs, cut back on food for people who need food, and cannot put it on their table, cut back on educational benefits, cut back on social security increases, cut back on so many other programs that means so much to so many. The Secretary of Health and Human Resources is even cutting back on research centers for Alzheimer's disease. There are five research facilities and they are cutting it back to three, with total savings of $2 million.

Mr. President, is it really more important to take care of our corporate executives and see that they do not pay fair taxes than it is to have two more research facilities in the area of Alzheimer's disease?

We spend $1 million a year total to research the whole area of child suicide, $1 million total. And yet once every minute a child in this country attempts to commit suicide and once every 90 minutes a child in this country is successful. So $1 million does not sound like much money. But that is all we spend on that area of research.

Maybe if we did not take care of the corporate executives and paid a little more attention to our kids, paid a little more attention to the older people of this country, maybe the people of this country would have a little more respect for Congress. They think that we are a giveaway operation. They think we take care of only those who have lobbyists around Washington. They think that the defense contractors can constantly and consistently rip us off. They think anyone who has some political moxie or political power is able to get away with anything and everything, and unfortunately what they think is 100 percent correct.

This is a raw, raw deal that we are involved in in that committee report.

Mr. President, when I raised this issue on the floor last month, the majority leader was very frank about his position. He stated:

> There are a number of aircraft companies in rather deep recession at this time, including several in Wichita, Kansas, that this Senator has some interest in. They are very concerned about this. They think that without some clarification, the overvaluations required by the regulations can have a potential impact on the entire industry.

I only wish that the Treasury had been as frank and open about its decision to revise the regulations.

On May 3, I delivered a letter to Assistant Secretary Ron Pearlman, asking several questions about the proposed regulations.

I asked for:

First, a detailed explanation of the method by which the IRS determines fair market value for valuing fringe benefits; second, a description of actual out-of-pocket costs of a typical roundtrip flight between Washington and Miami; third, an explanation of why existing regulations do not reflect fair market value; fourth, an explanation of the tax treatment accorded businesses providing aircraft for personal travel to its employees.

I ask unanimous consent that the copy of the letter and the Treasury response be printed at this point in the RECORD.

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

COMMITTEE ON ENERGY
AND NATURAL RESOURCES,
Washington, DC, May 3, 1985.

Hon. RONALD PEARLMAN,
Assistant Secretary, U.S. Department of the Treasury, Washington, DC.

DEAR RON: As part of the Senate-House conference agreement on legislation to repeal the contemporaneous record keeping requirement, you agreed to amend existing regulations to ease the fringe benefit valuation rules for corporate aircraft. I believe that your decision to provide a tax cut for corporate executives who use corporate aircraft for personal use is outrageous. In addition, I believe that your decision is not supported by existing statute or Congressional intent.

Last year as part of the Deficit Reduction Act, Congress terminated the moratorium on fringe benefit regulations and amended Section 61(a) of the Internal Revenue Code to provide that fringe benefits are among the items specifically listed in that section as gross income. According to the "General Explanation of the Revenue Provisions of the Deficit Reduction Act of 1984," by the Joint Committee on Taxation, Section 61 was amended "as a clarification that the *fair market value* of any fringe benefit not covered by an express statutory exclusion is included in the recipient's gross income * * *." (emphasis added).

Existing regulations provide that key employees (executives) who use corporate aircraft for personal purposes must impute into income the cost of chartering a similar aircraft. I believe that the charter cost represents a reasonable measure of fair market value for vacation and other personal uses. However, you have announced that the IRS will issue amended regulations that limit the amount imputed to executives to twice the first class fare for the trip. This new regulation means that an executive who takes a round-trip flight from Washington, D.C. to Miami on a Lear Jet will only have to include $1,128 of income, instead of $6,470,00 as provided under existing regulations. If the trip is on a C-90 King Air, the amount imputed is $218 instead of $6,070. And if it is on a smaller aircraft, such as a Beechcraft Baron, the amount imputed will be $109 instead of $3,110. These examples clearly indicate that the new regulations will provide a substantial tax cut for corporate executives who use their company's private aircraft.

Please provide me with:

(1) a detailed explanation of the method by which the IRS has determined the fair market value of personal trips taken by executives on their company's planes, and a detailed description of the methodology used by the Treasury in valuating other fringe benefits.

(2) a description of the actual out-of-pocket costs (fuel, landing charges, pilot wages, etc.) that are incurred in a typical round-trip flight from Washington to Miami;

(3) a description of what has transpired in terms of statutory changes or information brought to the Department's attention that leads you to believe that existing regulations do not properly measure the value of flights taken by executives, and why your proposed regulations will reflect the accurate fair market value;

(4) an explanation of the tax treatment accorded a company that provides an aircraft for the personal use of an executive—specifically I want to know whether a company will ever be entitled to deductions that exceed the amount the executive must include in income; and

(5) a detailed description of the legislative history of the 1984 tax bill that leads you to the conclusion that the proposed regulations conform to congressional intent.

Because the conference report on H.R. 1869 will reach the Senate floor next week, I would appreciate receiving a response to my questions by the close of business on Monday, May 6.

Sincerely,

HOWARD M. METZENBAUM,
U.S. Senator.

DEPARTMENT OF THE TREASURY,
Washington, DC, May 9, 1985.

Hon. HOWARD M. METZENBAUM,
U.S. Senate,
Washington, DC.

DEAR SENATOR METZENBAUM: I received your letter of May 3, 1985, regarding the valuation of personal flights on company aircraft. I welcome this opportunity to respond to your concerns about our decision to revise the safe harbor values for such flights.

Your letter questions the appropriateness of the planned revision to the safe harbor values as applied to executives who use the company airplane for personal purposes. Under the planned revisions (which are not addressed in the pending legislation), all employees, including executives, would be able to use a safe harbor method of valuing a personal flight on a company aircraft. Under the safe harbor, aircraft are divided into 4 classes with different safe harbor values. For example, the value of a flight by a control employee (a term which includes certain executives) on an aircraft weighing more than 25,000 pounds would generally be double the first class fare for a trip of that distance on a commercial airline.

The legislative history of the Tax Reform Act of 1984 provides Treasury with the power to "issue regulations setting forth appropriate and helpful rules for the valuation of taxable fringe benefits." House Report 98-432, at 1609. Pursuant to this legislative history, on January 2, 1985, the Treasury Department issued regulations which, in addition to articulating certain general rules for valuing fringe benefits, established safe harbor valuations for the availability of an employer-provided automobile, for the use of an employer-provided automobile for commuting, for a flight on an employer-provided airplane, and for a free or discounted flight on a commercial airline. The purpose of these safe harbors was to make the taxation of fringe benefits more certain and administrable. Instead of determining fair market value based on all the facts and circumstances, taxpayers could simply use these safe harbor values. Such use would relieve both taxpayers and the Internal Revenue Service of a significant administrative burden and reduce tax controversies. We believe that administrative simplicity is very important in the taxation of fringe benefits; much of the past failure by taxpayers to report fringe benefits can be attributed to uncertainties regarding valuation.

For the safe harbors to be effective, the values should not exceed a value perceived as fair by taxpayers. If the safe harbor values are set too high, the safe harbors will not be used and thus will not accomplish the purpose for which they were established, namely, reduction of the administrative burden. Determination of a value perceived as fair cannot, of course, be accomplished with any degree of certainty. Nevertheless, in establishing our safe harbors, that is what we have attempted to do based in part on extensive review of public comments.

The company aircraft safe harbors are based on the price of commercial airline seats. Since the overwhelming majority of air travel is by commercial airline, this is an appropriate reference for establishing safe harbor values for similar air travel on company aircraft. The use of a double first class safe harbor value for control employees flying on the largest aircraft reflects a substantial premium for the convenience of a

company aircraft. At the same time, we believe that this value will be perceived as fair by taxpayers.

We do not suggest that outside the safe harbors a value based on charter costs would be inappropriate. Where the value of a personal flight on a company aircraft is determined outside of the safe harbors, all the facts and circumstances must be considered and, in certain instances, a value based on charter could be appropriate.

I appreciate this opportunity to share my views with you.

Sincerely,

RONALD A. PEARLMAN,
ASSISTANT SECRETARY
(Tax Policy).

Mr. METZENBAUM. Mr. President, Treasury has refused to answer any of these questions.

In his response, Secretary Pearlman wrote:

For the safe harbors to be effective, the value should not exceed a value perceived as fair by taxpayers.

We do not suggest that outside the safe harbors a value based on charter costs would be inappropriate.

Imagine, if all taxpayers were given the opportunity to decide what is fair and what is not and then to pay only what he or she thinks is fair—would that not be wonderful? And would it not have an unbelievable negative impact upon the budget?

I venture to guess that our budget deficits would be even higher than they are today.

It is outrageous that the Treasury Department has turned over the regulation writing process to those who are supposed to pay the tax.

Here we have a tax cut, a tax cut going not to middle-income people, not to poor people, but going to some of this country's most privileged corporate executives.

As a matter of fact, I am told that some corporate executives have been heard from and even they have said, "It is a stupid act on the part of the Treasury and we cannot understand why the Finance Committee of the Senate took the action that they did."

What kind of brains gives away Treasury dollars to the people who have the highest salaries in the country? There is no statutory language before us. There is not conference report language. There has been no legislative action whatsoever. And when a Member of the U.S. Senate attempts to ask the administration to explain its actions and to provide factual data, what happens? The Treasury Department refuses to answer the question and says, "We are too busy to give you those answers. We are working on the President's tax programs."

Mr. President, we hear a lot about budget deficits. We hear a lot about tax reform. We hear a lot about tax fairness and tax simplification. It is easy to talk about these objectives in glowing terms. It is as American as baseball and apple pie.

But when it comes time to act to achieve these objectives, it is a different story. We ought to be ashamed of ourselves and the Treasury Department ought to be doubly ashamed. The Treasury Department, on one hand, is preparing to release a tax reform package that is supposed to make our tax laws fair and simple. On the other hand, it is promulgating new regulations to provide tax cuts for the wealthy.

Mr. President, I do not blame any particular Member of this Congress. I blame all of us. I do not blame my friend from Kansas, the majority leader, for wanting to help Kansas companies. I do not blame the chairman of the Finance Committee. I do not criticize those who opposed my earlier amendment to prevent corporate executives from gaining this tax concession. I blame all of us.

We ought to face up to the realities of what we are doing and quit kidding the American people. We ought to go public and say, "Yes, today we took care of corporate executives in this country in this whole conference committee report which is going to cost the Federal Treasury $107 million over a 3-year period." Why? Because nobody wanted to keep written records.

But as soon as the recordkeeping issue came before Congress there were Members of this body that wanted to go further. Everybody wants to make speeches about balancing the budget, but everybody also wants to take care of the privileged few in this country.

I do not believe it does much for the public perception of how we legislate when back-room deals are struck for the benefit of the privileged few. And I think there is no excuse whatsoever for refusal by the Treasury Department to take responsibility for its own actions and to answer inquiries from a Member of Congress.

Mr. President, what I am saying I know will not change reality. It is not going to change the facts. It is not going to cause Treasury to do that which they should do. And it is not going to cause the Finance Committee of the U.S. Senate to repent and to look at themselves in the mirror and to say, "Why did we really do this? What earthly reason could we have had for doing it?"

None of that is going to occur, but the Senator from Ohio is going to feel a little bit better, at least, that he raised the issue on the floor of the Senate.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. 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. HEINZ. Mr. President, I would like to clarify a question I have in regard to the contemporaneous recordkeeping, H.R. 1869, and conference report. The bill listed types of vehicles that were exempted from the substantiation rules and from treatment as a taxable fringe benefit.

First, I want to clarify that this list was not meant to be all inclusive, and that Treasury has the authority to expand this list.

In addition, I want to inquire if Treasury has the authority to include certain pickup trucks and vans in the list of vehicles not susceptible to personal use and excluded from income tax if it is shown that the design, such as permanent shelving or heavy equipment that cannot easily be removed, makes the particular vehicle not susceptible to personal use.

Mr. PACKWOOD. The answer to both of the Senator's questions is yes. The list included in the conference report was not intended to be all inclusive—Treasury definitely has the authority to expand the list.

This is a facts and circumstances test and you have listed some of the relevant facts that Treasury should consider.

Mr. HEINZ. I thank the Senator from Oregon for his forthright and helpful answers to my questions.

Mr. D'AMATO. Mr. President, I rise today in support of the conference report on H.R. 1869, which repeals the ridiculous contemporaneous recordkeeping under which we are currently operating. These IRS regulations are imposing a tremendous burden on America's businesses.

These rules required that the use of cars, trucks, airplanes, personal computers, and even photographic equipment be recorded contemporaneously in a log. These onerous regulations were mandated by the Deficit Reduction Act of 1984, which I opposed.

Such contemporaneous recordkeeping imposes a massive burden on businesses and is a gross intrusion by the IRS into even the smallest economic transaction. As a result, there has been a great outcry against the IRS regulations. Legislation was introduced, which I was proud to cosponsor, to repeal the logging requirements. This bill, S. 245, required that the recordkeeping regulations be completely repealed. I am pleased that the Senate Finance Committee took quick action on this vital legislation.

The bill before us today would repeal contemporaneous recordkeeping for cars, trucks, airplanes, photographic equipment, personal comput-

ers, emergency vehicles, and unmarked police cars. The conferees were careful to require that adequate records on the use of business vehicles still be kept for tax purposes. However, these records need not be kept contemporaneously. By crafting the legislation in this manner, honest taxpayers can get on with the business of doing business. By requiring adequate records a loophole is not created allowing dishonest individuals to abuse the Tax Code.

Mr. President, I am proud to support H.R. 1869 and I urge my colleagues to join me in voting for this vital legislation.

Mr. ANDREWS. Mr. President, I rise in support of the conference report to repeal these onerous recordkeeping requirements.

It is rare that a Federal regulation should cause such an overwhelmingly negative public response as the regulations we are repealing today. Naturally, no one wants to spend their time detailing minutiae or business transportation when the Federal tax law could be fairly appealed in a broader manner. But in this case, the issue is far more serious than merely keeping business records. I believe that this law represented a breach of faith by the Government.

If there is a line to be crossed where the Government no longer serves the best interests of the people, we have just seen it crossed. This is why we have repealed these rules by such a lopsided vote. But it was not simply these specific rules. It was these rules on top of hundreds of other intrusions into the daily lives of average Americans. It is small business men and women filling out form after form so that they must devote 18 hours a day to their business just to stay above water. It is middle income Americans who must hire someone else at tax time to understand how to avoid paying more than their fair share of taxes. It is the American farmer who gets told when to plant, what to plant, where to sell, and to whom to sell in order for that farmer to make a decent livelihood. In short, in the spirit of this repeal bill, we must also use the moment to consider other ways to get the Government off the backs of the American people.

Mr. ABDNOR. Mr. President, today the Senate is taking final legislative action on legislation to repeal the ridiculous IRS rules which require detailed mileage logs for business vehicles. Since the opening day of Congress, I've been fighting to abolish these rules and solve what has been a 6-month-long paperwork nightmare for millions of ordinary Americans. I'm pleased that we are finally sending this bill to the President and that the nightmare will soon be over.

Although it was my bill which passed the Senate by a 92-to-1 vote, I was not a member of the conference committee since I'm not a member of the Finance Committee. However, I would like to commend the Senate conferees for their wisdom in refusing to accept a catch-22 provision included in the House version of this legislation. By including a reference to written evidence, the House bill would have permitted the IRS to again impose burdensome recordkeeping requirements.

It's ironic that in a bill which was supposed to get rid of this bureaucratic boondoggle, the House wanted to include a provision permitting the IRS to impose the same ridiculous requirements all over again. A move like that doesn't make much sense unless you're more interested in playing politics than solving this massive paperwork burden. The Senate conferees are to be commended for holding the line against the House provision.

The Government seems to forget that farmers, ranchers and businessmen have more important things to do than needless paperwork. For months now, they've been tied down to their odometers. It's time we unleash them so they can get on with more important and productive work. I've received literally hundreds of letters from South Dakotans who have been attempting to keep detailed logs. If they were honest in their recordkeeping, they just weren't getting their work done. It is not unusual for a day's log on a single vehicle to cover an entire legal size page with upwards of 20 detailed entries.

I am disappointed, however, that the final version of this bill went even further than the House in reducing limits for investment tax credits and depreciation on business vehicles. While I'm all for going after those who take abusive tax deductions on luxury-type cars, I'm afraid this provision is going to amount to a tax hike on many small business men and farmers. I had made it a point to keep hidden tax increases out of my bill.

While I may not be entirely satisfied with this legislation, the important thing is that we've gotten the Federal bureaucracy off the backs of millions of honest, hard-working Americans. At a time when the Federal bureaucratic monster seems out of control, it is encouraging to see that it is possible to rein it in. I am proud to have been able to play an instrumental role, and I hope this action will serve as an impetus for other needed regulatory reforms.

Mrs. HAWKINS. Mr. President, I am pleased to rise in support of this conference report to repeal the contemporaneous recordkeeping requirements imposed on American businesses when the deficit reduction package was passed last year.

Everyone in this Chamber is very much aware of the severe problems this requirement created for businesses who work in a fast-paced environment and were losing thousands of dollars and valuable time each week because of this draconian requirement. One Florida businessman reported that his company estimated that each employee was losing at least 1 hour per day to complete the required information for their records.

As a Member of this body, I want to work to encourage efficiency and productivity in the marketplace, not stifle it. Efforts should be made to clamp down on those who cheat this country by evading their tax liability. However, stringent rules that broadly sweep across every sector of the population and impose severe burdens on honest taxpayers is not the answer. The result of the contemporaneous requirements was simply to frustrate taxpayers and, therefore, almost encouraged additional noncompliance out of that frustration.

The outcry for relief in my State came from the farming community, the real estate industry, every type of small business, bankers, and others. Essentially, it came from honest, hard-working Floridians who were outraged that the Government would deprive them of valuable work time to excessively substantiate legitimate and lawful business deductions.

Mr. President, the businesses of our communities are waiting for final passage of this legislation. I am grateful to the Finance Committee members for their expedient action and I urge each of my colleagues today to support this conference report so that we can finally put this onerous requirement to rest.

● Mr. NICKLES. Mr. President. The passing of the conference report for H.R. 1869, which repeals the so-called automobile log rule, ends one of the most punitive tax laws ever imposed. As an original cosponsor of the legislation to repeal this, I am glad to see this long road come to an end. I have already spoken several times on this subject before the Senate; therefore, my remarks will be brief.

There are thousands upon thousands of Oklahomans who will be relieved that this rule no longer exists. It was clear that this requirement was too broad and imposed excessive recordkeeping on the taxpayer. Comments from businesses and individuals while the rule was in effect showed that the cost of taxpayer compliance in both time and money far outweighed any added revenue benefit to the Federal Treasury.

Mr. President, I urge my colleagues, and I know they will, to support the conference report which repeals the auto log rule.●

Mr. DOLE. Mr. President, this Senator strongly recommends that the Senate agree to the conference report

on H.R. 1869. It represents a responsible compromise between compliance and complexity and does so in a revenue-neutral fashion.

The conference report repeals the requirement that taxpayers keep contemporaneous records and also follows the Senate position that written records will not be necessary to corroborate a taxpayer's position that a deduction is justified, although some evidence in addition to the taxpayer's own statement will still be required.

The conference report also exempts from the otherwise applicable substantiation rules certain vehicles which have been of particular concern to a number of Members. Among these are schoolbuses, certain police, fire vehicles, and specialized utility repair trucks other than pickups and vans.

On a related issue, this Senator is particularly pleased that the Treasury Department decided that it would revise its regulations concerning the value of personal travel on corporate aircraft. This has made unnecessary any further legislative action.

In his letter to me explaining the regulatory changes Treasury would adopt, Assistant Secretary Pearlman outlined guidelines which follow the conceptual framework of the Finance Committee report language and provide a fair valuation for personal travel on company aircraft.

Perhaps the most important change is that the amount included in an employee's income will depend upon the type of plane as well as on whether the plane is carrying a substantial number of persons flying for business reasons. The original version of the Treasury regulations did not distinguish between a flight on the most luxurious corporate jet and a four seat, single-engine plane with a maximum speed of barely a hundred miles per hour. That certainly made no sense in the real world.

A second important change is that the revised regulations will treat corporate hitchhikers in a manner similar to airline employees. If half the passenger seats on a company plane are occupied by employees traveling primarily for business, then no amount will be includable in the income of an employee who hitchhikes for personal reasons. This rule, like the rule applicable to airline employees, applies to active and retired employees, as well as their spouses and dependent children.

I should clarify one point. The seats that should be counted in determining whether half the seats are occupied are passenger seats and pilot seats if a nonprofessional pilot employee, such as the company president, flies the plane. However, if the company employs a professional pilot to fly the plane, his seat is not counted for these purposes.

The changes outlined by Assistant Secretary Pearlman differ from the Finance Committee report language in certain areas. First, the regulations set a higher value for personal flights on aircraft weighing over 10,000 pounds if the employee is of a class likely to be able to control the aircraft's destination and time of departure. For planes between 10,000 and 25,000 pounds, the amount imputed to an employee who takes a personal trip is one and a half times first class commercial fare. For personal travel on aircraft over 25,000 pounds, the amount to be included in income is twice first class fare.

The over 10,000 pound classes include all corporate jets and the largest turbo-props. The over 25,000 pound class includes the largest corporate jets, those that are most like commercial airliners.

The valuations have been criticized as too high by some members of the corporate community and have been criticized as too low by some individuals. I guess that means that we have a good compromise.

However, I would like to point out that the economic impact of a rule requiring inclusion in income at twice first class is the same for a corporate executive in the 50-percent bracket as if he had used his after-tax income to purchase a first-class ticket. It seems to me that placing corporate executives in the same position, whether they use a large corporate jet or fly first class on a large commercial jet, makes a lot of sense.

I understand that some might argue that the correct valuation should be charter or some other higher value, but I would venture that most people would think that first class is a sufficient amount to exact for a flight on a large corporate jet. The last point is important from a compliance standpoint. Undoubtedly, there is use of company aircraft for personal trips. If we were to force these trips to be valued at the highest conceivable value, we would simply cause individuals to go to greater lengths to find some arguable business purpose for the trip or, simply to play the audit lottery and not report the income without even making an effort to document a business purpose. On the other hand, if we impose a fair and reasonable value for these trips, employees will be more likely to report their income accurately to avoid any question if they are subsequently audited.

From comments I have received, these rules may have the impact of reducing the number of trips where a corporate executive's spouse accompanies him/her on a business trip. The reason for this is that the spouse would cause a control employee to have an income inclusion of up to twice first class unless at least half the passenger seats are occupied by business travelers. I can understand that some would prefer that the IRS look only to seats actually occupied, rather than seating capacity, but I can also see Treasury's position that they wanted a strict, objective test as to whether the flight was primarily for business purposes, and that it is more difficult to be sure that the primary purpose of the trip is business when only one of two passengers is arguably flying for business and most of the passenger seats are empty.

The other major difference between the proposed regulatory changes and the Finance Committee report language is the definition of control employee. The Finance Committee language suggested a facts and circumstances test—did the employee, in fact control the destination or departure times of the aircraft? The Treasury approach, once again, is to provide an objective test.

A select few elected officers, highly compensated employees, and shareholder employees will be deemed to have control over the use of the corporate aircraft. They will thus be subject to income inclusion of up to twice first class, depending on the weight of the aircraft. Of course, if half the pasenger seats are occupied by employees traveling primarily for business, even those control employees will be treated the same as airline employees and have no income inclusion.

Mr. President, the new aircraft fringe benefit rules are a reasonable compromise. They are fair both to the Treasury and to employees. They address the empty seat problem and provide adequate, but not punitive, valuations for employee travel that ought to improve compliance.

Mr. President, I yield back the remainder of the time on this side.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

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

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

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, it is my hope now that those who have an interest in the following bills would indicate a willingness to take up those bills: Calendar No. 47, S. 408, Small Business authorization; Calendar No. 111, H.R. 47, the coin bill; Calendar No. 131, S. 124, safe drinking water; Executive Calendar nomination of Vernon Walters; Executive Calendar nomination of Richard Hughes; and we are looking for other Legislative or

Executive Calendar items that we can clear for action.

It may be that the prime candidate of the ones referred to would be Calendar No. 111, H.R. 47, the coin bill. There is considerable interest on both sides in bringing that to the floor. I would just indicate that we are prepared to do that. I hope those who have an interest in that legislation would indicate to me or the distinguished minority leader if they have problems or if they are prepared to move on that legislation.

Mr. METZENBAUM. Mr. President, will the distinguished majority leader be good enough to give us some advice as to whether he intends to work on Friday?

Mr. DOLE. Mr. President, it is my understanding that the defense bill will be laid down. There will be opening statements. I am not certain whether or not there will be amendments, but I should have that information no later than 3:30 today.

Mr. METZENBAUM. I thank the Senator.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

RECESS UNTIL 1:15 P.M.

Mr. DOLE. Mr. President, we are trying to see what we can schedule in about an hour from now. Until I am certain, it seems to me the best course to follow would be to stand in recess until the hour of 1:15 p.m. Therefore, I ask unanimous consent that the Senate stand in recess until 1:15 p.m.

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

Thereupon, at 12:17 p.m., the Senate recessed until 1:15 p.m.; whereupon the Senate reassembled when called to order by the Presiding Officer [Mr. MATTINGLY].

The PRESIDING OFFICER. The Chair in his capacity as a Senator from Georgia suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ROUTINE MORNING BUSINESS

Mr. MATTINGLY. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business under the same terms and conditions as previously ordered.

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

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

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

Mr. BYRD. Mr. President, I have cleared this request with the distinguished majority leader. I ask unanimous consent that I may speak for as long as I require during morning business.

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

Mr. BYRD. May I say that if any Senator wishes to have the floor, I will be very glad to yield to him or her.

THE UNITED STATES SENATEI63

THE SENATE AND THE SECOND WORLD WAR, 1941-1945

Mr. BYRD. Mr. President, those interested in the history of the United States Senate can always find rewarding information in the *Congressional Directory,* that great catch-all of congressional facts and figures. I call your attention to the "Statistical" section, which among other things lists the number of days that every session of Congress lasted, going back to the First Congress in 1789. That first session lasted for 210 days, and second session for 221 days, both surprisingly high. Their length reflected the problems of inaugurating a new government, and perhaps also the practice of paying members of Congress for the number of days they served, rather than by the year. After the First Congress the length of each session declined. Generally, during each two-year Congess, there were two sessions. The "long session" lasted between 150 and 200 days, and the "short session" between 50 and 90 days. thus, nineteenth century senators and representatives often spent less than half their time in Washington—a practice which many of our members today may look back upon wistfully.

Not until the first session of the 31st Congress, from 1849 to 1850, did a session of Congess extend longer than 300 days. This was the time when Congress debated the great issues leading to the Compromise of 1850, about which I have spoken earlier. Only four times between 1850 and 1940 did a session of Congress last longer than 300 days. But all of that changed with the third session of the 76th Congress, which ran from January 3, 1940 to January 3, 1941, or 366 days—it being a leap year. Since then, year-round sessions have become commonplace in the congressional routine.[1]

The 76th and 77th Congresses were great pivotal points in our history, as both this institution and the Nation as a whole plunged into the maelstrom of world war and took on the responsibilities of world leadership. In my last address in this continuing series on the history of the United States Senate I discussed the "great debate" over foreign policy between the so-called isolationists and internationalists. Although the isolationists had predominated during the two decades following the Senate's rejection of the treaty of Versailles, world events began to erode their position, and public opinion began to shift away from them. During 1940 and 1941 Congress enacted such critical legislation as the extension of the Selective Service Act and Lend Lease. But the debate raged on until Sunday morning, December 7, 1941, when the Japanese attack on Pearl Harbor brought the Congress, the presidency, and the Nation together as one.

Ten minutes after noon on Monday, December 8, the Senate marched in procession to the House chamber to hear President Franklin Roosevelt deliver a stirring and eloquent war message. "No matter how long it may take us to overcome this premeditated invasion," said the president, "the American people in their righteous might will win through to absolute victory. . . . Hostilities exist. There is no blinking at the fact that our people, our territory, and our interests are in grave danger . . . I ask that the Congress declare that, since the unprovoked and dastardly attack by Japan on Sunday, December 7, a state of war has existed between the United States and the Japanese Empire." Immediately following the president's address, the Senate returned to its chamber, where Tom Connally of Texas, chairman of the Foreign Relations Committee, introduced a joint resolution declaring war. Connally called for the yeas and nays, but Senator Arthur Vandenberg (R-MI) rose to speak. Connally tried to hold him off. "Mr. President, those of us on this side of the chamber are withholding remarks," said Connally. "I was hoping that there would be no comment." But Vandenberg persisted, and Connally gruffly observed that "of course, the senator has a right to speak if he insists." [2]

One can imagine the scene as the Michigan senator began to speak. All eyes in the crowded chamber were focused upon this leading spokesman for

[1] Footnotes at end of article.

isolationism. Everyone quieted to hear his words. Since four o'clock on the previous afternoon, when he received a telephone call at his Washington apartment telling him of the Japanese attack, Vandenberg had been preparing this speech. The news profoundly affected the senator and changed his perceptions of international cooperation and collective security. "That day ended isolationism," he later commented.[3] Now on the Senate floor, after denouncing the Japanese attack and declaring the American people united in defense of their Nation, he said:

> Mr. President, I am constrained to make this brief statement on my own account, lest there be any lingering misapprehension in any furtive mind that previous internal disagreements regarding the wisdom of our policies may encourage the despicable hope that we may weaken from within. I have fought every trend which I thought would lead to needless war; but when war comes to us—and particularly when it comes like a thug in the night—I stand with my Commander in Chief for the swiftest and most invincible reply of which our total strength may be capable.[4]

The Senate then voted unanimously for the war resolution. (In the House, one lone vote was cast against the resolution, and that by Representative Jeanette Rankin of Montana, who had also voted against American entry into World War I, and who end her long career as a pacifist in opposition to the Vietnam war.) With that vote, and with Vandenberg's pronouncement, the isolationists' influence in the Senate evaporated. Their trust in an invulnerable "fortress America," protected by two oceans, as Senator William E. Borah and others had reiterated, had been proven misplaced.

Some isolationists had not yet gotten the message. On December 11, Senator Charles Tobey (R-NH) complained in the Senate that exact American losses at Pearl Harbor were still unknown, and demanded a congressional investigation. Senator Scott Lucas (D-IL) furiously lashed into the isolationist. "I say to the senator from New Hampshire, in so far as negligence is concerned, look at your own record from the standpoint of national defense." [5]

Attention, of course, was no longer focused on the issue of isolationism versus internationalism. What mattered now was winning the war, and the Senate quickly began to address the problem, passing War Powers acts in December 1941 and March 1942 that granted vast discretionary powers to President Roosevelt. The president could create and abolish war agencies, control foreign commerce, ration goods, and enforce priorities. The president could also order government seizure of private property if needed for the war effort. Instrumental in passing these bills, and other critical wartime legislation was the Democratic majority leader, Alben Barkley of Kentucky.

Mr. President, an imposing marble bust of Alben Barkley stands immediately outside of the center entrance to this chamber, and it most appropriately occupies that prominent place. Many politicians claimed to have been born in a log cabin, but Barkley really was, on his father's tobacco farm in Kentucky in 1877. As a young man he worked as a janitor to earn his way through Marvin College and then he attended Emory University and the University of Virginia Law School. Returning to Kentucky, Barkley practiced law in Paducah, and campaigned on horseback in the hills of McCracken County for the office of prosecuting attorney. He then served as a county circuit court judge, before his election to the United States House of Representatives in 1912. In Congress, he won a reputation as "a regular among regulars, a party workhorse of the old school." He supported the administration of Woodrow Wilson and took a leading part in the passage of Wilson's "New Freedom" legislation. In 1926, he sponsored the Howell-Barkley Act, which set up the Federal Board of Mediation and Conciliation for labor disputes. That same year he was elected to the United States Senate.

"A good story," Barkley liked to say, "is like fine Kentucky bourbon. It improves with age and, if you don't use it too much, it will never hurt anyone." Senator Barkley, with his booming baritone and endless repertoire of anecdotes, quickly became a popular member of the Senate. In 1932, Barkley was called upon to deliver the keynote speech at the Democratic convention, an honor which was repeated again and again during his long career, attesting to his rousing speech-making ability. At that convention, Barkley was also the first of the favorite son candidates to withdraw his name in favor of Franklin D. Roosevelt. This marked the start of a long and close relationship between the two men.

In 1937, following the death of Senate majority leader Joseph Robinson, President Roosevelt sent a letter addressed to "Dear Alben" encouraging Barkley to take up Robinson's fight for the controversial Supreme Court "packing" plan, and, by implication, to take over as majority leader. Roosevelt's endorsement helped Barkley win the Democratic leadership post by a narrow one-vote victory over Mississippi Senator Pat Harrison. It was a costly victory for Barkley, however, and for some years he was looked upon more as Roosevelt's messenger to the Senate than as a true leader in his own right. Nevertheless, during his early years as majority leader, Barkley effectively marshalled support for Roosevelt's program. He helped lead the fights to repeal the Neutrality Act and the Arms Embargo Act, and to extend the reciprocal trade agreements acts. In January 1941, he was Senate sponsor of the Lend Lease Act and maneuvered it skillfully around numerous crippling amendments. With the war came even greater assignments.[6]

Senator Barkley and Senator Prentiss Brown of Michigan took the lead in sponsoring price control and anti-inflation legislation, both of which demonstrated Congress' need to focus on domestic issues, not in spite of, but because of the war effort. Although Congress had delegated vast powers to the president in the two War Powers acts, it did not concede to the administration the sole power to run the war and the wartime economy. Roland Young, in his study of *Congressional Politics in the Second World War*, points out how Congress repeatedly attempted to influence wartime policies. "Congress was perhaps less concerned with broad principles of administrative organization," Professor Young wrote, "than with the manner in which the economic position of certain groups and commodities was being affected by the war." With the federal goverment attempting to regulate, and even dictate American production, many groups turned to Congress for help. For example, there were the farmers who needed more agricultural equipment, and the small businesses that feared they would not get a fair allocation of raw materials and supplies. In 1942, after a Senate committee reported that small businesses faced "bankruptcy and chaos along a wide front," Congress set up a Smaller War Plants Corporation to oversee their needs. Congress also passed legislation to provide loans to automobile dealers, who faced ruin as the automobile industry converted from producing passenger cars to making tanks and war planes.[7]

Another domestic issue which the Senate faced, but did not resolve, was the poll tax. It may seem strange that as the Nation faced war across both the Atlantic and Pacific, the Senate should be debating the poll taxes that were charged in seven Southern states. But the Roosevelt administration and many liberal Democrats and Republicans believed it was contradictory to fight a war for democracy abroad while denying it to some people at home. The poll taxes, which amounted to about $1.50, discriminated against poor white and black voters in these states. In October 1942, the House passed an anti-poll tax bill, and on November 13, 1942, Majority Leader Barkley brought the bill before the Senate with an undebatable motion for its immediate consideration. In response to his outraged Southern colleagues, Barkley explained that he followed the precepts of Thomas Jefferson and believed in equality for all

people. Despite Barkley's attempts to stave off a Southern filibuster, one began over the parliamentary question as to whether the Judiciary Committee had a quorum present when it reported the bill. One senator had been absent and voted by proxy [8] —which, of course, would be a violation of the rules today which require that a quorum of the Senators on a committee be present at the moment that it reports a bill or other matter from the committee.

Those engaged in the filibuster, led by Mississippi's Senator Theodore Bilbo, encouraged senators to go home so that an adjournment could be forced in the absence of a quorum. Senator Barkley, however, instructed the sergeant-at-arms to "arrest" those senators who were still in the city, but had absented themselves from the floor.

Incidentally, Mr. President, I am the last majority leader to have offered a motion to have Senators arrested and brought into the Chamber for the purpose of establishing a quorum. In that instance, Mr. Mansfield, who was then majority leader, was in the Far East. I, as the assistant majority leader, was acting leader at that time. Almost immediately after passage of that motion, Senators began coming in the doors and answering to their names. As a matter of fact, no Senator had to be arrested but those who were outside resting on the couches on that particular night found it convenient to come into the Senate quickly and answer to their names.

At that time, J. Mark Trice (who later became secretary of the Senate) was the deputy sergeant-at-arms, and to Mr. Trice fell the unpleasant duty of "arresting" the Senate's president pro tempore, the doughty Senator Kenneth McKellar of Tennessee. What follows was delightfully recorded by Richard Riedel, who worked in the Senate press gallery and who published this account in his memoir, *Halls of the Mighty, My 47 Years at the Senate*:

> Senate Majority Leader Alben Barkley was determined to get a quorum come what may. "Do you mean Senator McKellar, too?" asked Mark /Trice/. "I mean *everyone*!" answered Barkley. With more than a few misgivings, Mark
>
> —whom we all, in my early days in the Senate, knew very well and respected very much—
>
> set out for the Mayflower Hotel to seek the volatile bachelor from Tennessee. When Senator McKellar did not answer the house telephone, Mark enlisted the aid of a hotel official who suggested they get a maid to knock on the door. Obviously the hotel man knew McKellar well! The senator opened the door at the maid's request to discover Mark Trice outside. McKellar welcomed him and seemed surprised to learn that he was needed at the Senate. Though Mark carried a subpoena in his pocket, it never became necessary to mention it.
>
> The old senator came along in a friendly spirit, chatting with Mark as though they were on a normal trip together. Then suddenly, as the car climbed Capitol Hill, the light in the dome made McKellar put two and two together. He realized that he was about to help the leadership to get a quorum that would foil his fellow Southerners. He stopped talking to Mark. His face grew redder and redder. By the time the car reached the Senate entrance, McKellar shot out and barrelled through the corridors to find the source of his summons to the Capitol in the middle of the night. He was so mad at Barkley that he would not speak to him for months, though as senior Democrat, Senator McKellar sat beside the majority leader in the front row.[9]

As the little story illustrates, Mr. President, majority leaders often stand in the kitchen and feel the heat! Senator Barkley—and Mr. Trice, I might add—both made their amends with Senator McKellar, after he had cooled down a bit, some fifteen months later—and how that occurred I will mention later in this address. Ultimately, Barkley proved unsuccessful in the poll-tax fight, as he could not persuade the Senate to vote cloture against the filibuster. It was not until 1964 that the 24th amendment to the Constitution was ratified, prohibiting the charging of a poll tax in presidential or congressional elections.

Senator Barkley's strength as majority leader, as his biographer, Polly Ann Davis, has noted, was his ability to compromise. "All legislation is a matter of compromise," Barkley once wrote. "I never liked that word 'compromise' because it has a connotation that is not really fair. But I mean by it that all legislation must be by the process of adjustment." A majority leader is never guaranteed a majority of votes, but must build a majority, issue by issue, vote by vote. Senator Barkley succeeded in building majorities because "he had an uncanny sense of the possible, knowing when to be adamant on a point and when to yield." He excelled in cloakroom maneuvering and in face-to-face dealings with other senators. He had a reputation for keeping his word.[10]

And by the way, having served in this body now for going on 27 years, I have found that to be an absolute cardinal principle here. If one breaks his word once, he may never be fully believed again. It is like the old poem about the bird with the broken pinion: It never flies as high again.

The Democrats held their majorities in both houses after the elections of 1942, although by reduced margins. When Senator Barkley returned to Washington for the start of the new Congress in January 1943, he found his leadership challenged in the Democratic Conference by a still angry Senator Kenneth McKellar. The first question concerned the election of a secretary. Senator Josh Lee had been defeated in the recent election, and to replace him as conference secretary, Barkley nominated Senator Monrad Wallgren of Washington. Senator McKellar nominated Senator Francis Maloney of Connecticut. By a secret ballot, McKellar's candidate won by a vote of 31 to 22. Senator Joseph O'Mahoney of Wyoming then moved that the chairman of the conference—that is, Majority Leader Barkley—assign members to fill the vacancies on the Democratic Steering Committee. Senator McKellar moved that the members of the conference as a whole should vote to fill the vacancies. Here Barkley drew the line. He reminded his Democratic colleagues that filling vacancies on the Steering Committee had always been the prerogative of the majority leader—and by the way, it still is—and announced that he would resign immediately as leader if he were stripped of this power. This brought the McKellar revolt to a halt. Again by a secret ballot, the Democrats defeated McKellar's motion by a vote of 33 to 20 (Senator Maloney, the new secretary, had left the room before the vote was taken).[11]

Back in the saddle, Alben Barkley continued pressing the president's program. He fought against the Smith-Connally Anti-Strike bill, which made it illegal to strike against a plant that had been seized by the government. The bill passed and was vetoed by President Roosevelt, but was eventually enacted over the president's veto. No matter what the issue, Barkley was there—at the desk from which I speak now—fighting the good fight for the president's program. Reporter Allen Drury, who came to cover the Senate in November 1943, and who has left us a fascinating diary of those years (*A Senate Journal, 1943-1945*, a worthy companion to his popular novel *Advise and Consent*), looked down at Barkley from the galleries and described him as acting "like a man who is working awfully hard and awfully earnestly at a job he doesn't particularly like. Sweat almost visibly stands out at times on the man the president once addressed as 'Dear Alben.' "[12]

Few would have suspected that a fissure was about to open between President Roosevelt and his loyal lieutenant, but a mighty one was in the making. In his State of the Union message in January 1944, the president requested a ten billion dollar tax bill to pay for the war. The Senate Finance Committee produced instead a two billion dollar tax bill. Senator Barkley had been a member of the Finance Committee, and while not entirely satisfied with the bill, concluded that it was the best that could be gotten at that time. In two meetings with President Roosevelt, Barkley strongly urged him not to veto the tax bill. After meeting with the seemingly unmovable president, a glum Barkley

rode back to the Capitol with Vice President Henry Wallace. "What's the use?" Barkley complained. "I can't get the votes in the Senate under the methods that are being followed." Wallace noted that this was the first time he had ever seen Barkley "look on the dark side of the picture." It was clear that the chief executive had no intention of signing the tax bill, but Barkley still hoped Roosevelt would let the bill become law without his signature. But on February 22, 1944, Roosevelt returned the bill with his veto message.[13]

Immediately following the traditional reading of George Washington's farewell address, the Senate received the president's message and was shocked by its tone. Essentially the president rejected the legislation for providing insufficient revenue, but he did so in language which Alben Barkley and other senators found offensive. This bill provided "relief not for the needy but for the greedy," Roosevelt wrote.

It has been suggested by some that I should give my approval to this bill on the ground that having asked the Congress for a loaf of bread to take care of this war for the sake of this and succeeding generations, I should be content with a small piece of crust. I might have done so if I had not noted that the small piece of crust contained so many extraneous and inedible materials.

The president went on to accuse Congress of:

using language in drafting the law which not even a dictionary or thesaurus can make clear. . . . I trust, therefore, that the Congress, after all these delays will act as quickly as possible for simplification of the tax laws which will make possible the simplification of the forms and computations now demanded of the individual taxpayer. These taxpayers, now engaged in an effort to win the greatest war this Nation has ever faced, are not in a mood to study higher mathematics.

After the Senate adjourned that day, Senator Barkley met with the press and recounted for them, "in a cold fury," as one reporter described it, how he had argued with the president against the veto. He told them that he intended to make a speech in the Senate the next day "without regard for the political consequences." That night he went home to discuss his decision with his invalid wife, and then sat before a battered typewriter in his bedroom drafting his speech. The next morning he dictated another draft to his secretary and then marched to the Senate floor at noon.

As Allen Drury has recorded, every reporter who could possibly attend was in the gallery. "All the bureau chiefs rushed up from downtown; most of the special correspondents were there. As Barkley sat at his desk waiting for the quorum call to be completed, he glanced up from time to time with an almost questioning look at the Press Gallery. He saw it more crowded than he had seen it in many months." Word began to spread among the senators that Alben Barkley intended to resign as majority leader. Almost the full membership of the Senate was in the chamber. Kenneth McKellar, Barkley's old adversary, headed for Barkley's desk and shook his hand, urging him to reconsider. At the end of the quorum call, Barkley rose and was recognized by Vice President Wallace.[14]

For the next forty-five minutes, Barkley denounced both the president and his veto message. Barkley denied Roosevelt's charge that Congress was responsible for the tax complexities. "No man could have made that extraordinary statement who had sat in tax committees in the Capitol of the United States," he said.

If it was made by anybody who ever sat in a tax committee, it was a deliberate and unjustified misstatement in order to place upon Congress the blame for universal dissatisfaction with tax complexities, and in order to produce the illusion that the executive departments have in vain protested against this complexity.

But what truly raised Senator Barkley's dander was the president's characterization of the bill as tax relief for the greedy. This, the senator said, was a "calculated and deliberate assault upon the legislative integrity of every member of Congress." He did not intend to take such an insult lying down. He had carried the flag for the Roosevelt administration for seven years as majority leader, but there was something more precious to him than that position and honor, said the senator. "And that is the approval of my own conscience and my own self-respect." He announced that he had called a meeting of the Democratic Conference for the next morning, at which time he would submit his resignation as majority leader. He then concluded that "if the Congress of the United States has any self-respect yet left it will override the veto of the president and enact this tax bill into law."[15]

When Barkley took his seat the rest of the Senate and the galleries jumped from theirs and gave him a standing ovation, lasting "a good three minutes." Senators rushed to his desk and stood in line to shake his hand. Senators were on their feet, as Allen Drury observed, "to honor a man who had finally, after many years and many humiliations, reasserted his own dignity and his own self-respect and gained thereby an increased stature among the men with whom he works."

The next morning more than a hundred reporters and cameramen packed the hall outside of room 201 in the Senate Office Building, surging around senators for a quick statement and photo before they entered the conference. At 10:30, Barkley walked the short distance from his office to the conference room. A half hour later he stepped out, and with tears in his eyes announced that he had resigned as majority leader and turned the chair over to Senator McKellar. Surrounded by the press, Barkley walked back to his office. Then minutes later, Tom Connally burst out of the conference room, booming in a loud voice: "Make way for liberty! Make way for liberty!" as he led a delegation of Democratic senators to Barkley's office to tell him they had unanimously reelected him majority leader.

I can remember reading that story in the newspapers away back when.

Soon they emerged again, this time with Barkley with them. He returned to the conference room to the cheers and applause of the other senators. "By his one-vote margin in the 1937 contest when he was first elected leader," Senator Elbert Thomas later commented, "the impression was given, and it has been the impression ever since, that he spoke to us for the president. Now that he has been unanimously elected, he speaks for us to the president."[16]

Needless to say, President Roosevelt was taken aback by his turn of events. When first informed of Barkley's speech in the Senate denouncing the tax veto, the president had commented, "Alben must be suffering from shell shock." The president was genuinely puzzled over Barkley's emotional response, but he immediately sent a conciliatory message to the senator, denying that he had meant to attack the integrity of the Senate. "You and I may differ," Roosevelt wrote, "but that does not mean we question one another's good faith." The president concluded by urging Barkley not to resign, and stating that if he did, he hoped the conference would unanimously reelect him. Senator Barkley responded in kind, telling the press that he had "the deepest personal affection and regard for the president."[17]

There were several results of this remarkable incident. First, the Senate and House decisively overrode the president's veto of the tax bill. Second, President Roosevelt was never more estranged from Congress, a consequence due in part to his long years in the White House and his preoccupation with the war effort. Third, Senator Barkley gained new stature as majority leader. And finally, Senator Barkley lost his chance to be nominated for vice president in 1944, and of becoming president of the United States after Roosevelt's death in April 1945. In the movement at the Democratic convention in 1944 to replace Vice President Wallace, Democrats turned not to their majority leader but to another border state senator, Missouri's Harry S. Truman. And in one of those special twists of fate in history, four years later President Harry Truman

would choose Alben Barkley for his vice president.

Alben Barkley, let me say, served as an extremely popular vice president, or "Veep" as he was affectionately called, and then returned to service in the United States Senate in 1954, defeating a popular incumbent, John Sherman Cooper.

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

Mr. BYRD. I yield.

Mr. LONG. I would just add one footnote to what the Senator said.

At the time Senator Barkley returned to the Senate, the Senator from Louisiana was on the Finance Committee, and he did not know what other committee he wanted. But he saw Alben Barkley ask for those two committees, and the Senator from Louisiana asked to go on the Foreign Relations Committee, of which I subsequently became a member of couple of years later. Having been on both committees, I do not think it is a very good assortment of committees.

I thought that inasmuch as Alben Barkley had been majority leader longer than any other Senator, he would make a wise decision as to the committees he asked for. I must say, looking back on it, that I did not regard the decision as being all that wise.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Louisiana.

The Senator from Louisiana, as I have said before in this series of speeches, is one who has served in the Senate longer than I have served. When I came in here in January 1959, there were 96 Senators and 48 States. Today, there are only four Senators who were here when I came here. One of those four is my delightful and able friend from Louisiana, Mr. LONG. Senator STENNIS, Senator LONG, Senator THURMOND, and Senator PROXMIRE were here when I came to the Senate. So I am glad that Senator LONG has made the observation regarding Senator Alben Barkley.

Mr. LONG. Mr. President, if the Senator will yield at that point, Senator Barkley was known for his sense of humor—a great impromptu speaker. When someone would tell him a joke, he would make it a point to repeat it as promptly as possible, in order to keep it in his mind and add it to his repertoire.

He told one story that might be appropriate and might be good for the minority leader. He might want to use it on a future occasion.

Senator Barkley's first wife died, and it created a lot of conversation around the city when he then married a younger woman. She had a family of her own. She was a charming and lovely person, much younger than the Vice President. People asked him how the marriage was coming along. He said it was coming along just great. Have they had an argument?

He said: "No difference whatever. My wife and I had an agreement when we married that she would make all the small decisions and I would make all the big ones. So far, we haven't had any big decisions to make."

Mr. BYRD. I again thank the distinguished Senator from Louisiana. That is about the way my marriage is. I call my wife the general superintendent around the house. I am just a lowly private in the ranks.

Mr. LONG. Yes.

Mr. BYRD. While his Senate colleagues gave him back his assignments on the Foreign Relations and Finance Committees, Alben Barkley would not accept their offer of a front-row seat in the chamber, preferring to join the other freshmen in the back. "Now I am back again as a junior senator and I am willing to be a junior," he said in his last keynote speech, before a mock "convention" at Washington and Lee University in 1956. "I'm glad to sit in the back row. For I would rather be a servant in the House of the Lord than to sit in the seats of the mighty." With those words, Alben Barkley collapsed and died—as dramatic a conclusion as any orator could offer. As one of his friends commented, "It is the way he would have wanted to go. He never could turn down a crowd."[18]

By the way, two years ago I was pleased to support the bill when established, as a National Historic Site, Senator Barkley's beautiful home, known as "Angles," located near Paducah, Kentucky. The house has been left the way it was when he lived there and contains the many mementos of his long career.

Mr. President, having concentrated so much attention on Alben Barkley today, let me turn to another notable senator with whom Barkley's name will forever be linked and who also played a significant role in the Senate during World War II. That is the name of Harry Truman. Nineteen eighty-four was the centennial of Harry Truman's birth—he was born on May 8, 1884—and there was a joint meeting of Congress to commemorate that event. The freshman Senator Truman who first arrived in this chamber on January 3, 1935 certainly had not the slightest idea that he would be so honored by Congress and by history. The former haberdasher and Jackson County, Missouri judge was nearly fifty-one when he came to this chamber, but he described himself "as timid as a country boy arriving on the campus of a great university for his first year." With his customary thoroughness, he had read the biographies of every member of the Senate before he arrived and had studied everything he could get about Congress. He was quite awed by his new position. Old J. Hamilton Lewis, the Democratic whip, welcomed the newcomer to the Senate. "Don't start out with an inferiority complex," Lewis advised him. "For the first six months you'll wonder how you got here, and after that you'll wonder how the rest of us got here."[19]

Truman's colleagues found him an amiable fellow but did not take him all that seriously at first. He was often referred to, snidely, as the "Senator from Pendergast," meaning that he was a product of the Kansas City Democratic machine run by Tom Pendergast, who later went to prison for corruption. Truman remained loyal to Pendergast, who had given him his start in politics, and supported the Pendergast organization on patronage matters but insisted that he did not follow Pendergast's advice on legislation. "I vote the way I believe Missourians as a whole would want me to vote." Truman's voting in the Senate was generally in line with the New Deal, and roll call analyses have shown that the longer he served in the Senate the closer he came to President Roosevelt's position on all of the issues.[20]

Senator Harry Truman was a student of the legislative process. "I found out very soon after I had settled down to a study of my duties that the business of a good legislator is not to get things done quickly and efficiently, as a good administrator has to do," he said, "but to prevent, if possible, the enactment into the law of the land many crazy and crackpot measures." From his associations with Arizona's Senator Carl Hayden, Truman learned to be a "work horse" rather than a "show horse" in the Senate. He soon found that, as he expressed it, "the real business of the Senate was carried on by unassuming and conscientious men, not by those who managed to get the most publicity." Truman also associated himself closely with Montana's Senator Burton K. Wheeler, chairman of the Interstate Commerce Committee, on which Truman served. There he devoted his attention and study to matters of railroads, aviation, communication, and federal trade. It was out of Truman's subcommittee, for instance, that the Civil Aeronautics Act emerged, which set up our current Civil Aeronautics Board and Federal Aviation Administration.[21]

Harry Truman might have remained a quiet, hardworking, and essentially obscure member of the Senate had it not been for World War II. Even before the United States entered the war, Truman was concerned about the problems of defense mobilization and production. He had received many letters from his constituents criticizing defense spending in Missouri, and on an inspection trip to Fort Leonard Wood and other camps he had uncovered examples of waste, extravagance,

and theft. Individuals and corporations, he suspected, were bleeding the national defense program for their own profit. On February 10, 1941, Truman rose in the Senate to submit a resolution calling for an investigation of the national defense program and the handling of federal contracts. He expressed concern that defense spending was being concentrated in large corporations in the East. "The little manufacturer, the little contractor, and the little machine shop have been left entirely out in the cold. The policy seems to be to make the big man bigger and to put the little man completely out of business."[22]

On March 1, Truman's resolution was reported out of committee and unanimously adopted. Eight members were appointed, with Truman as chairman. But the Senate cut the proposed budget for the committee from $25,000 to $15,000, indicating it didn't expect much from this special investigation. The Roosevelt administration lent its support, largely because it believed Senator Truman was not a headline hunter and would not use the committee to embarrass or harrass its conduct of defense policy. So the Special Committee to Investigate the National Defense Program—better known as the Truman Committee—was born. Its members were noticeable primarily for their "unspectacular competence," according to one account, and several of them proved to be excellent interrogators of witnesses, from defense contractors to high government officials. One of the best of these interrogators, by the way, was Senator Harley Kilgore from West Virginia, who chaired eight of its investigations and earned a reputation as a critic of military waste and inefficiency.[23]

The Truman Committee first directed its attention to nearby Fort George Meade in Maryland. There they found spiraling camp construction costs, which led them to recommend that future construction be transferred from the Quartermaster Corps to the Corps of Engineers, and that was done at a multimillion dollar savings to the government. The Committee also began to oversee the activities of the new agencies the president was appointing to handle defense mobilization. When the Japanese attack on Pearl Harbor plunged the Nation into war, some government officials hoped that the Truman committee might be disbanded, but soon came to change their opinions. Under Secretary of War Robert Patterson commended the committee's work. "Some of the very best features of our war program have their origin from the investigations made by this committee."

Mr. President, congressional investigations have a considerably mixed history. Some of them have been castigated as partisan fishing expeditions and glory hunts. After the McCarthy investigations of the 1950's, such congressional hearings developed a decidedly bad name. But there have been many more constructive investigations than destructive witchhunts in the Senate's history. We recall the Teapot Dome hearings in the 1920's and the Pecora stock market investigations in the 1930's, about which I have spoken earlier, or in our own times the Watergate investigation chaired by Senator Sam Ervin. The Truman committee ranked high among these constructive and meaningful investigations. In its seven years of existence, the committee held 432 public hearings and 300 executive sessions (the transcripts of which, by the way, have been carefully preserved at the National Archives and are completely open for research). They heard testimony from 1,798 witnesses, made hundreds of field trips, and issued thousands of press releases.[24] Here, for example, is a brief account of the committee written by two journalists in 1945:

> Through the door of Room 449 in the Senate Office Building, the committee headquarters, flowed a strange assortment of mail and people. A typical day might bring an eccentric inventor with a gadget; he said the Army and Navy had given him the brush-off. He would be followed by a manufacturer who thought his product had been discriminated against by the Quartermaster General. A maker of mouthwash for the Army couldn't get priorities for alcohol; a dry kiln owner couldn't get a government contract for his lumber; or an industrialist accused a competitor, now holding a dollar-a-year job in WPB [the War Production Board], of using his official position for private ends. And every day there was an assortment of government officials, labor representatives, lobbyists, and occasionally a plain citizen with an idea he hoped might help the war effort. Some came in search of a new shoulder to cry on; others looked to Truman as a court of last resort. None was turned away coldly.[25]

The Truman committee investigated and prodded industry, labor, and the executive branch to work more harmoniously and efficiently for the war effort. It investigated the aluminum monopoly that seemed unresponsive to military needs. It looked into a bitter dispute between the United Mine Workers and the coal operators. It encouraged President Roosevelt to reorganize the poorly-run Office of Production Management. The committee pointedly did not meddle in military strategy, but it carefully examined the relations between the military and the civil government. The committee demanded full cooperation from the military in supplying the information it sought, and in only one instance did Senator Truman back down on a request. Committee staff investigators discovered some unexplained expenditures for something called the "Manhattan Project." Truman telephoned Secretary of War Henry Stimson to demand an explanation, but the Secretary responded: "I am only one of a group of two or three men in the whole world who know about that. . . . It's part of a very important secret development." Senator Truman replied: "I herewith see the situation, Mr. Secretary, and you won't have to say another word to me." It was not until after he became president that Harry Truman learned the purpose of the Manhattan Project: to develop the first atomic bomb.[26]

Mr. President, it is no exaggeration to say that Harry Truman's work on the Special Committee to Investigate the National Defense Program not only made him president, but prepared him for the presidency. By the time he had completed his four years as chairman of the committee he had dealt with nearly every one of the groups, in business, labor, agriculture, and the bureaucracy that he would deal with as president during the next eight years. He had learned how to deal with the press—although that relationship was never a smooth one, or can it ever be for a political figure?—and the press in turn had made Truman a household name. Service on the Truman Committee changed his image from the "Senator From Pendergast" to a fair, tough, hard-working, diligent, persistent, patriotic senator. When the Democrats sought a replacement for their controversial vice president, Henry Wallace, in 1944, Senator Harry Truman filled the bill. He was a compromise candidate, because unlike Wallace, or Alben Barkley, or James F. Byrnes, he had no major groups opposed to his candidacy. So it was Harry Truman who ran with Franklin Roosevelt in the president's bid for a fourth term in 1944. Roosevelt and Truman easily beat the Republican ticket of Thomas E. Dewey and John Bricker, and Harry Truman settled in for what he expected would be four years of presiding over the Senate.[27]

The United States Senate was presented with a myriad of problems during the Second World War, so complex and extensive that I can but list them here. They included supervising the conversion of a peacetime domestic economy to a war economy, establishing controls over military and industrial production, regulating the draft, and deciding who were the essential workers needed for the domestic economy (farmers and defense workers, for example), who should be exempt from the draft, appropriating money both for the war effort and the homefront, tackling the issue of labor strikes during the war, deciding how soldiers on the field should be able to vote, controlling wages and prices to prevent spiraling inflation, distributing scarce resources to the civilian population through rationing and other formulas, and raising taxes to pay for the great needs of the war.[28]

In the case of taxes, it was during the Second World War that much of our current structure of revenue raising developed. After ratification of the income tax amendment in 1913, taxes were levied only on the highest incomes, and the average citizen paid little or no federal taxes. Due to the great demands of the war, this situation changed in 1942 and taxes were levied on nearly all levels of income. The problem was that the average citizen had not put aside sufficient funds and was simply unable to pay his or her taxes. The rate of default was so high that the government eventually had to "forgive" the 1942 taxes, but the next year income tax withholdings from salaries were established and have become a way of life ever since.[29]

Mr. President, I have focused this address largely on the domestic side of World War II. Of course, the Senate as a whole and through its appropriate committees followed, assisted, oversaw, and criticized both the military and diplomatic sides of the war. Beginning in January 1942, Senator Tom Connally, chairman of the Foreign Relations Committee, initiated the practice of having a State Department official brief members of the committee on a weekly basis. Senators also expressed their concerns over the principles for which this Nation fought in this global conflict, and on the type of world order that would emerge from the war. In March 1943, Senators Joseph Ball, Theodore Burton, Carl Hatch, and Lister Hill—two Republicans and two Democrats—introduced a Senate resolution commiting the United States to five peace objectives: to assist in coordinating the military and economic resources of all member nations in prosecuting the war against the Axis; to establish temporary administrations over Axis-controlled territories once they were captured; to administer relief and economic rehabilitation to both Allied and captured enemy territories; to establish procedures and machinery for peaceful settlement of disputes and disagreements between nations; and to provide for a United Nations military force to suppress future acts of military aggression. This resolution, foretelling the postwar United Nations, was referred to a subcommittee of the Foreign Relations Committee chaired by Walter George of Georgia.

Time and events had changed many minds in the United States Senate about the proper role of this Nation in the world. Arthur Vandenberg, a leading isolationist before the war, became a member of the George subcommittee, and noted in his diary in March 1943 that he took the position "that the United States obviously must be a far greater international co-operator after this war than ever before." The Roosevelt administration, through Secretary of State Cordell Hull, urged the subcommittee to "go slow," however, to avoid an acrimonious debate on the Senate floor. There were still a number of articulate isolationists left in the Senate who worried them, and the administration did not want to disrupt the war unity of the Nation. Of course, there were also many uncertainties involved in the postwar future that this resolution did not address. The Soviet Union had become one of our allies when the United States entered the war, and while we provided that nation with military and economic aid, and counted heavily upon its military forces to withstand the German onslaught, many senators were suspicious of Joseph Stalin's territorial expectations after the war. But the sponsors of the resolution argued that the first priority was to assure America's allies that this Nation would not withdraw into isolation after the Second World War as it had done after the First World War.

In May 1943, British Prime Minister Winston Churchill addressed a joint meeting of Congress and delivered yet another magnificent address, pleading with Congress to avoid any needless arguments between the Allies until the war was won. Later, Churchill met with the members of the Foreign Relations Committee to answer their questions. When asked by Senator Vandenberg if it would disrupt Allied unity by "trying prematurely to settle peace objectives," Churchill replied emphatically: "Yes!" Similarly, when asked if any Senate debate over possible Soviet territorial aggrandizement might be a hazard to the war partnership, Churchill responded: "Yes!" Later, however, Churchill took Vandenberg aside to assure that he did not oppose the general resolution then before the George subcommittee.

In July 1943, Senator Vandenberg, and Senator Wallace White of Maine, introduced a "Republican foreign policy" resolution in the Senate, as an alternative to the Ball-Burton-Hatch-Hill resolution. It called for postwar cooperation between sovereign nations, in opposition to the designs of "One Worlders" and "World Staters" who dreamed of a common international government, and it called for "faithful recognition of American interests" in all postwar planning. Senators Ball, Burton, and Hill responded in Senate speeches demanding that the George subcommittee act on their resolution, and act quickly. In a private letter that August, Vandenberg explained that he was "hunting for the middle ground" between those "who would cheerfully give America away," and those "who would attempt a total isolation." When it came to determining Republican foreign policy issues, no senator was more influential than Arthur Vandenberg, and it was clear that how he made up his mind, and where he found that "middle ground" would influence many other members of his party. Fortunately for those interested in how historical decisions are made, Senator Vandenberg faithfully kept a diary which was published after his death, and from which I have drawn this account.[30]

At last in October 1943, the George subcommittee completed its work. Into the original Ball-Burton-Hatch-Hill resolution it incorporated some of the concerns of the Vandenberg-White resolution, pledging the use of the "constitutional process" and concern for "American sovereignty." The debate was as acrimonious as the State Department had feared, but the opponents remained a decided minority, and the resolution was adopted by an 85 to 5 vote. When the dust had settled, Senator Connally stood to thank Senator Vandenberg for his valuable contributions to the drafting and passage of the resolution. "Being of the minority party," said Connally, "it was probably more difficult for him than for some of the rest of us to go along with the main purpose we had in view, but at all times he manifested a very earnest desire to cooperate, and he gave to the committee wholeheartedly of his talents and leadership in achieving agreement and unity on the resolution."

Senator Vandenberg's public conversion from isolationism to internationalism was a slow, deliberate, and exceedingly important one. From his call for national unity immediately following the Japanese attack on Pearl Harbor, through his support for the Senate resolution which pledged American support for a future United Nations, Vandenberg was moving toward a position of bipartisan internationalism. In foreign policy even more than domestic policy some degree of bipartisanship is always essential, not only to unify the Nation but to secure the necessary two-thirds of the Senate needed to ratify a treaty. Rarely can a majority party do that without help from the minority. Vandenberg stood as the bellwether for a substantial number of the Republican minority.

Senator Vandenberg, as his son later commented, was about to make "the biggest decision of his life." In January 1945, the magazine *United States News* (forerunner of *U.S. News and World Report*) reported that Republican leadership in the Senate was "virtually powerless on postwar foreign policy." The Republicans were still too divided between isolationism and internationalism and, therefore, had "little effect on the foreign policy." Arthur Vandenberg sat down at his typewriter to draft a response. He wrote several versions of the speech, and accepted revisions from such prominent journalists as James Reston and Walter Lippmann, inciden-

tally insuring the speech prominent attention in the press.

On January 10, 1945, Senator Vandenberg rose in this chamber to deliver a "speech heard round the world." "Mr. President," he began, "there are critical moments in the life of every nation which call for the straightest, the plainest, and the most courageous thinking of which we are capable. We confront such a moment now." After describing the way American war policy and post war policy ought to be directed, Vandenberg delivered a personal "confession." He admitted that he had once stood for the Nation's complete self-reliance. "But I do not believe that any nation hereafter can immunize itself by its own exclusive action. Since Pearl Harbor, World War II has put the gory science of mass murder into new and sinister perspective. Our oceans have ceased to be moats which automatically protect our ramparts. . . . If World War III ever unhappily arrives, it will open new laboratories of death too horrible to contemplate. I propose to do everything within my power to keep those laboratories closed for keeps." Vandenberg went on to pledge his support for "maximum American cooperation" with other nations in building the postwar world.

The specific proposals of Senator Vandenberg's address proved less important than its general impact and reception. It attracted newspaper headlines everywhere in this country and around the world. His speech symbolized a new national unity on foreign policy, a bipartisan approach, a belief that politics would henceforth stop at the water's edge. What he said was not particularly new, but coming from a leader of the prewar isolationist bloc it represented a major turning point in American political and diplomatic history.[31] I will discuss the full implications of this turning point for bipartisanship in a later address on the Senate and the Cold War, but for now let me quote the words of Allen Drury, who from the press gallery that day heard Vandenberg's address: "This placed the Republicans' most powerful spokesman on foreign affairs far out in front of both his own party and the leaders of the opposition. It augured well for the future of the peace treaty." [32]

Mr. President, when Arthur Vandenberg delivered that significant address, Harry S Truman sat in the chamber as a United States senator. Ten days later he was sworn in as vice president, in a wartime inauguration held not at the Capitol but on the South Portico of the White House. Truman enjoyed his new position as vice president, although he admitted that it took him a while to get used to the fact that he had no voting or speaking privileges in the Senate. In his eighty-two days as vice president he had the opportunity to vote only once, on an amendment to limit the Lend-Lease extension bill. The vote was tied, and Truman voted no, which in a sense was unnecessary, since the bill would have died even without his vote. Truman was not given many tasks by the Roosevelt administration and saw little of the president, who in February attended the Yalta Conference, and in April traveled to his retreat in Warm Springs, Georgia. On April 12, 1945, Truman sat at the presiding officer's desk, listening to "a windy senator" delivering a long address, and writing a letter to his mother and sister back in Missouri. "I have to sit up here and make parliamentary rulings," he wrote, "—some of which are common sense and some of which are not.[33]

Near 5:00 p.m., Truman adjourned the Senate and strolled through the Capitol Building to the "Board of Education" room on the first floor beneath the House chamber. There he planned to enjoy a glass of bourbon and chat with his old friend, House Speaker Sam Rayburn, and other congressmen. Before Truman arrived, Speaker Rayburn received a call from the president's press secretary, Steve Early, asking the vice president to call back as soon as he got there. Moments later, Truman walked in the door. Matter-of-factly, Rayburn told him of the call, which he made. As Truman spoke on the phone, the House parliamentarian saw the vice president's face turn pale. "Steve Early wants me at the White House immediately," Truman said. "Something must have happened." Not yet realizing his fate, Truman rushed out, eluding his Secret Service guard, and ran the length of the Capitol back to his office. As instructed by the press secretary he told his chauffeur to drive him not to the east entrance of the White House as usual, but through the main entrance on Pennsylvania Avenue.

Ushered into the family quarters at the White House, Truman met Mrs. Roosevelt. "Harry," she said quietly, "the president is dead." Stunned into speechlessness, Truman finally found his voice and asked, "Is there anything I can do for you?" "Is there anything *we* can do for *you*?" she responded. "For you are the one in trouble now." [34]

So Harry Truman, who arrived in the United States Senate ten year earlier feeling like a country boy attending a famous university, was president of the United States. The next day, Truman returned to the Senate to lunch with congressional leaders in the office of the secretary of the Senate, just off this floor. When he left the luncheon, Truman walked into the Democratic cloakroom. "I looked into the empty Senate chamber," he later wrote. "These were the surroundings in which I had spent ten active, happy years. In a way it had been my political home, and here I had experienced the most exciting adventure I had ever expected to have. Less than twenty-four hours before, I had been presiding over the Senate. But now I was president of the United States and had to return to the White House." [35]

For Senators Harry Truman, Alben Barkley, and Arthur Vandenberg, their colleagues, and their Nation, the years of the Second World War were dramatic turning points. But I think it is safe to say that none of them anticipated how harrowing would be the years to come. Before dealing with the Senate and the Cold War, however, I intend to address, in my next speech in this series, a structural reform. It was perhaps the most important reform in the history of this institution, and for that I believe it deserves special attention. This was the Legislative Reorganization Act of 1946, which created the modern United States Senate.

NOTES TO "THE SENATE AND THE SECOND WORLD WAR"

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[2] *Congressional Record*, 77th Congress, 1st sess. (1941), 9504-9505.

[3] Arthur H. Vandenberg, Jr., ed., *The Private Papers of Senator Vandenberg* (Boston, 1952), 1.

[4] *Congressional Record*, 77th Congress, 1st sess. (1941), 9505.

[5] Richard E. Darilek, *A Loyal Opposition in Time of War: The Republican Party and the Politics of Foreign Policy From Pearl Harbor to Yalta* (Westport, Connecticut, 1976), 18-37; *Congressional Record*, 77th Congress, 1st sess., (1941), 9659.

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[7] Roland Young, *Congressional Politics in the Second World War* (New York, 1956), 34-36.

[8] Davis, *Alben W. Barkley*, 114-117.

[9] Richard Riedel, *Halls of the Mighty, My 47 Years at the Senate* (Washington, 1969), 89-90.

[10] Davis, *Alben W. Barkley*, 124-129.

[11] Democratic Party Conference Minutes, January 7, 1943.

[12] Allen Drury, *A Senate Journal, 1943-1946* (New York, 1972 /1963/), 11.

[13] Davis, *Alben W. Barkley*, 137-141.

[14] Drury, *A Senate Journal*, 85-88; Davis, *Alben W. Barkley*, 141.

[15] *Congressional Record*, 78th Congress, 2nd sess. (1944), 1964-1966.

[16] Drury, *A Senate Journal*, 88-93.

[17] Davis, *Alben W. Barkley*, 147-153.

[18] U.S., Congress, *Memorial Services Held in the Senate and House of Representatives of the United States, Together With Remarks Presented in Eulogy of Alben William Barkley*, 84th Congress, 2nd sess. (Washington, 1956), 101-106.

[19] Harry S Truman, *Memoirs by Harry S Truman: Year of Decisions* (New York, 1955), vol. I, 142-144.

[20] Gary Fink and James Hilty, "Prologue: The Senate Voting Record of Harry S Truman," *Journal of Interdisciplinary History* 4 (Autumn 1973), 207-235.

[21] Harold F. Gosnell, *Truman's Crises: A Political Biography of Harry S Truman* (Westport, Connecticut, 1980), 112-137.

[22] Ibid., 154-155; *Congressional Record*, 77th Congress, 1st sess., 830-838.

[23] Wesley McCune and John R. Beal, "The Job That Made Truman President," *Harper's Magazine* (June 1945), included in Arthur Schlesinger and Roger Bruns, eds., *Congress Investigates, A Documented History, 1794-1974* (New York 1975), 3254-3261. See also Robert Franklin Maddox, *The Senatorial Career of Harley Martin Kilgore* (New York 1981), 111-135.

[24] Theodore Wilson, "The Truman Committee, 1941" in Schlesinger and Bruns, *Congress Investigates*, 3115-3124.

[25] McCune and Beal, "The Job That Made Truman President," 3257-3258.

[26] Wilson, "The Truman Committee," 3128-3135.

[27] Gosnell, *Truman's Crises*, 154-168, 178-195.

[28] See in general Roland Young, *Congressional Politics in the Second World War*.

[29] Richard Polenberg, *War and Society: The United States, 1941-1945* (Philadelphia, 1972).

[30] Vandenberg, *The Private Papers of Senator Vandenberg*, 25-60.

[31] Ibid., 61-145.

[32] Drury, *A Senate Journal, 334-335*.

[33] Truman, *Year of Decisions*, 6, 194-198.

[34] Ibid., 4-5; Robert Donovan, *Conflict and Crisis: The Presidency of Harry S Truman, 1945-1948* (New York, 1977), 3-7.

[35] Truman, *Year of Decisions*, 18-19.

Mr. BYRD. 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.

RECESS UNTIL 4 P.M.

Mr. DOLE. Mr. President, we are in the process of a conference on the defense authorization bill, where we have 30 to 45 Senators involved. I think rather than to just keep the quorum call going, we would be better served if we had a recess while we complete that conference.

So I ask unanimous consent that the Senate stand in recess until 4 p.m.

There being no objection, the Senate, at 3:08 p.m., recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. QUAYLE).

SCHEDULE

Mr. DOLE. Mr. President, it is my hope that we can dispose of the safe drinking water bill yet this afternoon, perhaps H.R. 47, a coin bill, and then I understand the disaster relief bill has been cleared or is in the process of clearance. So we hope to dispose of those three measures.

We have just completed a Republican conference on the DOD authorization bill. It is our intention to call up that bill tomorrow, lay the bill down, have opening statements, which I assume will consume most of the day, and then there will be a committee amendment offered on procurement which will be the pending business when we recess tomorrow and will be pending on Monday.

Next week it would be my hope that we could get consent to have final passage of the defense bill no later than 6 p.m. on Thursday next. I will discuss that with the distinguished minority leader.

If the bill comes up, and it will come up, I will advise Members now that there will be votes on Monday, no votes until 5 o'clock Monday, but there will be votes starting at 5 o'clock, probably a number of votes at 5 o'clock, and we will have extensive sessions all next week. So it is our intention to try to finish the bill before Memorial Day.

Mr. President, I understand the distinguished Senator from Connecticut wishes to speak, so I yield the floor.

U.S. POLICY TOWARD CENTRAL AMERICA

Mr. DODD. Mr. President, I would like to take a few minutes here this afternoon. I appreciate the willingness of the majority leader to give me a couple of minutes to share some random thoughts with my colleagues.

Mr. President, over the last 4 years we have spent countless hours in this Chamber and elsewhere debating the policies of Central America. And over the last several weeks and up to now, and including what will more than likely occur in the coming weeks, we find ourselves again and again in this Chamber and this Congress knotted in the debate on Central American policy.

Mr. President, I have given this issue a great deal of thought over the last several weeks as to what our policy ought to be, and how we ought to deal with the present situation, particularly in Nicaragua. I have come to the conclusion, Mr. President, that the time has come for us to recast and rethink our policy entirely and to try to fashion a policy that not only makes sense for the region of Central America but, far more importantly, a policy that will first and foremost take into consideration the interests of the United States.

Over the past several years we have spent a great deal of time in this Chamber and elsewhere debating and discussing what ought to occur in the Central American region as a whole and more specifically what ought to occur within those countries, including El Salvador and Nicaragua; debating whether or not we thought the Contras deserved support in Nicaragua; whether or not the Sandinistas were a legitimate government deserving of support. We have talked at length about the situation in El Salvador and, to a lesser extent the situations in Costa Rica and Guatemala. And certainly all of those issues deserve a great deal of attention and we have, I think, properly brought to the attention of the American public the various views of Members of this body and the other body.

But too often Mr. President, I think the attention on Central America and the specific countries and the various groups that are part of that region have caused us to neglect what are our interests, the national security interests of the United States, and how important those security interests are to ourselves and to our allies throughout the region.

As a result of that neglect, Mr. President, and especially the international reaction to the President's decision to place a trade embargo on Nicaragua, I have come to the conclusion that we have to come up with something vastly different than what we have been proposing over the last several years. Whether one agrees or disagrees with the President's trade embargo policy on Nicaragua is not the point I want to make here. What was totally alarming to me was the fact that not only single country—not one single nation, including some of our closest allies—anywhere in the world would even rhetorically give any support to the embargo.

What I think has occurred, Mr. President, is that not only do we have a conflict with Nicaragua, but that we find ourselves, in the middle of May of 1985, 4 year after the initiation of the contra operation, in a situation where we are confronted with two-front conflict, a conflict not only with the Nicaraguans but also now we find ourselves in conflict with our European and Latin American allies.

After 4 years and $100 million-plus in aid to the contra operation, which the President has noted and others have noted over and over again as the centerprice of our effort to effect changes within Nicaragua domestically and to change their foreign policy, we find that Nicaragua's military strength has increased, domestic reforms have deteriorated, and the ruling government of Nicaragua is enjoying a popularity in excess of what they possessed in the winter of 1981.

While it has never been concisely stated over the last 4 years where our objectives were with the contras operation, I think no one will argue with the fact that we have basically been trying to encourage the Nicaraguans not to build a massive military machine in their country. We have been trying with the contra operation to

convince them that they ought to change their present domestic policies and live up to the promises they made in 1979 prior to overthrowing the Somoza government. And, third, we have been trying to convince our allies in this hemisphere and elsewhere that the Sandinista government does not deserve the support of democracies.

The result, after 4 years and $100 million plus, of that centerpiece of this administration's policy is that the stated goals have not only not been achieved, but that in fact, in each and every one of those categories, there has been a deterioration for U.S. interests. The military buildup, the deterioration of reforms, and the fact that Daniel Ortega, the President of Nicaragua, and members of his government are today enjoying a popularity throughout western Europe and this hemisphere that exceeds in many places the popularity of our own administration proves my point.

Our policy, Mr. President, is just not working. It is not working at all militarily, it is not working politically, and it is not working economically. It is painful to say, it is difficult to admit, but I think the sooner we do admit it and the sooner we seek a different course, the better off we are all going to be.

As I see It, Mr. President, there are presently three options before us. Option 1 is to pursue the present policy. This Chamber and this body will be asked in the not-too-distant future to support a figure of roughly $14 million in so-called humanitarian aid to the Contras. We will argue over what constitutes humanitarian aid. Does it mean nonlethal aid? Does it mean jeeps and tractors, or only syringes, band-aids, and stretchers? Who will deliver that aid? Will it be the Agency for International Development, the CIA, the Red Cross, or the United Nations? Where will it be delivered—inside Nicaragua, in Honduras, at some neutral delivery point? Who will supervise it? Who will see to it that we get an adequate accounting of whether or not this aid is actually reaching the people we intend it to reach, and so forth and so on?

We will in fact, Mr. President, be arguing about a nonpolicy. Following the present policy of providing what I would call almost meaningless humanitarian so-called assistance to the Contras is tantamount to rearranging the deck chairs on the Titanic, and waiting for this policy to work is tantamount to leaving the airport landing lights on for Amelia Earhart. The policy is just not getting us anywhere.

The second option would be to say that the only way we are going to effectuate change in Nicaragua is to overthrow the Government. We either decide to do it with direct U.S. military intervention or by giving the Contras the kind of military assistance that would make it possible for them to achieve that goal for us. Obviously, $14 million in humanitarian aid is not likely to contribute in a meaningful way to the overthrow of the Government. We are told by the President and others that we are not interested in overthrowing the Sandinista government, that what we are trying to do is convince the Sandinistas that they ought to change their policies both at home and abroad.

Mr. President, waiting for that to occur is also a pipe dream. One would be terribly naive to assume that the Sandinista government is going to fundamentally change its policy. It may make some cosmetic changes in order to satisfy international concerns, but on the fundamental issues the Sandinista Nicaraguan Government is not going to change unless they are ousted from power. And the only way they are going to be ousted from power is if we give the Contras meaningful assistance militarily or decide to take on that job ourselves. Obviously, we need to ask ourselves, if we decide to pursue option 2, is what the repercussions will be of all-out war in Nicaragua, how will we line up in terms of international public opinion, what the American people want us to do, and how long are they going to be willing to sustain a conflict if we become, as I think we would have to be, directly involved in such an effort? All are very important questions that one should address before you decide to take dramatic step of deciding that you are going to directly try to overthrow a government. But I want to emphasize, Mr. President, for those who believe that contra assistance is going to moderate Nicaraguan behavior, that they are waiting for something that is never going to occur.

The third option, Mr. President, is to refocus our attention in this country on the legitimate U.S. interests and concerns, to identify those interests and concerns, to make it absolutely as clear as possible to the Nicaraguans and others what our legitimate national security interests are in that region, and what we as a nation are prepared to do in order to defend those interests.

I hope there would not be any significant disagreement within this Chamber or elsewhere if we were to discover that the Nicaraguans were bringing in offensive missiles, sophisticated military hardware, or establishing Soviet or Cuban military bases in Nicaragua, that those actions would jeopardize our interests, the sea-lanes, the sovereignty of our allies, the Panama Canal, and a variety of other issues. If those events should occur, while I hope we would be able to convince the Nicaraguans, or anyone else who decided to do that, that those acts would cause serious difficulties here and abroad, we ought to make it clear—abundantly clear—to them that an option we would not exclude as a way of dealing with those problems would be the use of direct military force to eliminate those threats to our security. Those are our interests. Those are the interests that really do raise very serious questions about the security of the United States.

It seems to me that while we continue to focus our attention on the Contra operation, we are neglecting to pay far better attention to the interests of our national security, which I think are in far greater jeopardy today than they were 4 years ago.

What I happen to believe, Mr. President, is that the only two viable options that are available to us are the second and third options. Either we make a decision in this body to really give the Contras meaningful military assistance to assist them in the overthrow of the Sandinista government, or we admit to ourselves that is not likely to occur, and that there are other far more important interests which need to be addressed, or we shall continue making a serious mistake in terms of this country's interests in the months and years to come.

Mr. President, we can make that choice now or we can wait 6 months, or a year. We can spend another $100 million or $200 million or $300 million to provide humanitarian assistance or nonlethal assistance—call it what you will—to the Contras. But as each day, week, and month goes by the situation grows worse. The Nicaraguans grow stronger militarily, conditions deteriorate inside their own nation, and the United States continues to find itself in a more isloated position politically in this hemisphere and elsewhere.

We do not like to make hard choices. Human nature would prefer that we come up with so-called compromises—something that does a little bit of both; that provides the Contras with humanitarian assistance, but does not give them military assistance, that lets us play this one out as long as we can in hopes somehow that the situation might change, so that we can avoid having to make the difficult choices which I think we must.

The option of just providing an additional $14 million or $18 million or $20 million in jeeps, band-aids, and such nonlethal equipment is what I would call, Mr. President, a two-speech policy. That will allow Members to go back to their constituencies and speak to those groups who are opposed to military assistance to the Contras and say, "I only provided humanitarian aid."

You can then go to the next audience that is for the Contras and you can say, "But I provided assistance to the Contras."

So you can get away, and satisfy a domestic constituency. It is a compro-

mise in that regard. But it is certainly not a bona fide compromise when it comes to trying to deal with the serious problems that plague us in this hemisphere.

Mr. President, I am introducing legislation this afternoon which tries to lay out in a clear form and manner the third option that I have identified here this afternoon.

The legislation I am introducing states as clearly and as unequivocally as I can what some of our very legitimate security interests are in this hemisphere, and what we are prepared in this country to do to defend those interests should they be jeopardized by the Nicaraguans or others. I also, in this legislation, provide $10 million in financial support to the Contadora process, which I happen to believe is the most legitimate option and the most viable option of dealing with the broader Central American political and economic difficulties.

Third, Mr. President, I terminate all funding for the Contra operation except for relocation assistance for those individuals who are fighting with the Contras who decide to seek refuge in Central America. I believe we have an obligation to do that, because frankly, the Contra operation is our creation—or at least substantially our creation.

Mr. President, what I am offering here is not in any way to be interpreted as a choice between supporting the Contras or the Sandinistas. I hold no brief for the Sandinistas and I abhor what they are doing in their own country. What I am trying to do is to move onto center stage what I think is the more important debate and the far more important question; that is, the interests of the United States in this region. The longer we continue to focus our attention on the Contra policy, which was identified earlier as a policy that is not in fact improving or advancing the very goals we had stated at the outset, then it seems to me we jeopardize further the very legitimate U.S. interests within that region. We have been so totally consumed over the last 4 years by the Contra effort that I think we have hurt ourselves substantially in terms of ultimately dealing with the real issues.

Mr. President, I say once again in these random thoughts this afternoon that I do not think we have anything but the two choices I have identified. They are difficult choices, hard choices. But I think if we are honest with ourselves and honest with the American people, we shall finally have to come to terms and admit that there really are only those two choices. Just providing humanitarian assistance is not going to advance our cause at all. It may delay for a while the decision that I think we shall have to make sooner or later—and frankly, the longer we wait, the harder the decision will be.

In fact, over the last several days, I have heard a number of my colleagues suggest that, while they agree the policy of continued military support for the Contras does not make any sense, we have already spent $100 million, we have already been involved in this effort for the last 4 years, a number of good people have died, and that we cannot go back at this point; we are too committed to following this policy no matter how misguided it may be.

If that argument has any credibility in May 1985, think how much more credibility it will have 6 months, or a year, or 2 years from now, after we have expended more money for a longer period of time where more lives have been lost. Mr. President, we can make the choice now or we can make it later, but there is no question in this Senator's mind that we are going to have to make that choice.

The better choice, I believe, is one that admits that the present policy is not working, that we are not contributing to peace and stability in the region, we are not advancing the interests of the United States; that in fact, they are in far greater jeopardy. And the sooner we admit that to ourselves, to the American people, and to our allies, the better chance we will have of contributing to the peaceful resolution of the problems of the area and to some stability in this hemisphere.

Mr. President, 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. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds and declares that a direct threat to the security interests of the United States in the Central American region would arise from several developments including, but not limited to, the following:

(1) The stationing, installation, or other deployment of nuclear weapons or the delivery systems for such weapons in the Central American region.

(2) The establishment of a foreign military base in the Central American region by the government of a Communist country.

(3) The introduction into the Central American region of any advanced offensive weapons system by the government of a Communist country if such system is more sophisticated that such systems currently in the region.

(b) If any development described in paragraphs (1) through (3) of subsection (a) arises, the Congress intends to act promptly, in accordance with the constitutional processes and treaty commitments of the United States, to protect and defend United States security interests in the Central American region and to approve the use of military force, if necessary, for that purpose.

(c) Notwithstanding any other provision of law, the prohibition contained in section 8066(a) of the Department of Defense Appropriation Act, 1985, as enacted by the Act of October 12, 1984 (Public Law 98-473), which applies to funds available during the fiscal year 1985 to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States involved in intelligence activities shall apply to the same extent and in the same manner with respect to any such funds available during any fiscal year beginning on or after October 1, 1985. For purposes of the application of this subsection, the reference in such section 8066(a) to the fiscal year 1985 shall be deemed to be a reference to the fiscal year in which such funds are available.

(d) There are authorized to be appropriated to the President $14,000,000 for the fiscal year 1985 to be available only to achieve—

(1) the safe and orderly withdrawal from Nicaragua of all military and paramilitary forces which were supported by the United States before October 12, 1984; and

(2) the relocation of such forces, including members of the immediate families of individuals serving in such forces.

(e)(1) There are authorized to be appropriated to the Secretary of State $10,000,000 which shall be used only as may be necessary to assist the negotiations sponsored by the Contadora group and to support through peacekeeping and verification activities the implementation of any agreement reached pursuant to such negotiations.

(2) For purposes of paragraph (1), the term "Contadora group" refers to the governments of Colombia, Mexico, Panama, and Venezuela.

(f) Nothing in this Act shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this Act.

(g) For purposes of this Act—

(1) the term "Central American region" refers to the geographic region containing Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua; and

(2) the term "Communist country" has the same meaning as is given to it by section 620(f) of the Foreign Assistance Act of 1961.

Mr. President, I send the bill to the desk and ask for its appropriate referral.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. DODD. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CHEMICAL WARFARE

Mr. PRYOR. Mr. President, I sincerely thank the distinguished minority leader for yielding to me for just a few moments.

I think it is very, very appropriate that the minority leader this afternoon has talked about the late Harry Truman, because the late Harry Truman—Senator Truman and then President Truman—was one Senator and one President who did not mind questioning expenditures by the Department of Defense. He, himself, knew very well that his patriotism was not measured by the amount of the profits of defense contractors.

This next week, Mr. President, we shall be considering the Defense Department authorization bill. We all know the importance of a strong national security, and during next week's debate period, we shall once again, for example, be faced with the issue of whether or not the United States will reverse a policy it has had since 1969 that we would go out of the business of producing chemical weapons, or nerve gas. This debate has been heated, it has been emotional. The votes in this Chamber have been close.

As I recall, on two occasions in the past 2 years, the Vice President of the United States, occupying the chair, has had to break the tie in favor of resuming nerve gas production. I find it very, very strange indeed that the Pentagon publicity machine is once again swarming the halls, writing letters, and even going out to the State Adjutants General in our National Guards and having those fine individuals help the lobbying efforts of the Department of Defense to promote the resumption of nerve gas production. I think this activity is a bit ironic in view of the recent General Accounting Office report that shows that the Department of Defense has fallen far short in the area of defending our troops defensively—with better masks, better clothing, training in how to survive a chemical warfare attack or exposure. DOD has consistently played down the defensive aspects of our nerve gas deterrent and consistently played up the need to go back into full-scale production to add to our stockpile.

(Mr. DOLE assumed the chair.)

Mr. PRYOR. Down in Pine Bluff, AR, I say to the distinguished President and to my friend the Democratic leader, there is now sitting a new $27 million building awaiting our decision next week as to whether or not, in that facility, we will resume the production of nerve gas.

We have all heard about the $6,000 coffeepots and the Allen wrenches for $9,600, and the stool caps and the hammers and all of that. There is one additional item on the list that I would like to mention this afternoon. That is that under a sole-source contract, our Defense Department is now purchasing gas masks at $6,500 each. It is my understanding, Mr. President, that in France, you can buy a good gas mask for less than $100. Ours are $6,500.

That brings me to another matter. That is the issue of a major procurement decision due next week when several in this Chamber will gather whatever forces we might have to attempt not only to put teeth, but add some fangs, to the procurement laws that prevent such overpriced items.

Next week will be a critical week for the Senate, Mr. President. It will be a critical week for the country. I am very hopeful that we will no longer continue this idea that we can create the illusion of strength by throwing dollars at problems.

Next week, during the nerve gas debate, I think we must keep in mind that should we go forward once again with the production of nerve gas we will have no place to store the weapons in Europe. We have not seen one ally anywhere in the world, to the best of this Senator's knowledge, which says that it is now willing to store that supply of nerve gas on its soil.

So, what are we going to do? We appropriate another $63 million—billions of dollars down the line—to go back into the production of chemical warfare, when overwhelming testimony today is against the need for production to be resumed.

So, I would say in the area of defense procurement and the decision of nerve gas production, we will be making major decisions—major decisions that will affect our national security. I hope that those decisions will be made with wisdom and in the spirit of common sense and cooperation. Certainly, we will make our appeals to both sides of the aisle to listen to the arguments on the need for tighter procurement laws and the lack of the need to resume the production of chemical weapons.

Mr. President, I yield back the remainder of my time.

(Mr. SIMPSON assumed the chair.)

DOD AUTHORIZATION

Mr. PRYOR. Mr. President, I see both leaders on the floor. I would like, if I may, to ask the majority leader a question about the schedule. Is that permissible at this point? There is a lot of uncertainty, I say to my friend the majority leader, about the schedule for Monday. Tomorrow—Friday—as I understand it, we will have only general debate. Is that correct, on the Defense Department authorization bill?

Mr. DOLE. That is correct. If the distinguished Senator will yield, it is my understanding that the DOD authorization bill will be laid down sometime around noon, maybe a bit later. There will be rather extensive opening statements on both sides. There will be no votes.

It is my hope that we can agree that any votes that were ordered for Monday will be postponed until the hour of 5 p.m. on Monday, but I am quite certain there will be votes.

I guess the first amendment is a committee amendment. It deals with procurement. We do not want to spend all day Monday on one amendment if we can move onto other amendments. But there will be no votes tomorrow, and if we can make out some arrangement, no votes until 5 p.m. on Monday.

I assume then there will be a number of votes. Maybe not. We will be in early Tuesday, Wednesday, Thursday, and Friday. We have every intention to finish the bill next week.

Mr. PRYOR. I know the majority leader is trying to accommodate the respective schedules of Members of the Senate. Is it mandatory to finish the bill next week before the Memorial Day recess?

Mr. DOLE. I was reminded today that there are only about 50-some legislative days remaining, if we adjourn when we indicate we will this year. Everybody wants to delay and delay. I hope that we will finish it next week. Unless Members feel constrained to talk and talk, we might be able to finish. We finished foreign aid authorization in a day and a half. Normally that has taken several days.

Mr. PRYOR. I noticed in the press where the Department of Defense in a matter of a couple of hours found another $4 billion. My suggestion is we could drag this out a little longer if they did that every few hours. If we could simply think about maybe early votes on Tuesday and eliminate votes on Monday, that is my suggestion.

Mr. DOLE. There will be votes on Monday.

Mr. PRYOR. There will be votes on Monday?

Mr. DOLE. There will be votes on Monday. I have had Members on my side say, "No votes until Wednesday. Why vote Monday or Tuesday? Why not vote Wednesday?"

Well, why vote at all? As far as this Senator is concerned, there will be votes Monday. There would be votes tomorrow if we could arrange votes tomorrow, but we cannot arrange votes tomorrow.

I think this is a very important bill. We can characterize how the money comes from the Defense Department, gas masks and all those things, but the bottom line is it is rather important to our country that we act on this legislation rather than try to accommodate Senators.

Mr. PRYOR. I appreciate the concern of the majority leader. If we wait until 5 o'clock before votes occur, my

presumption is that we will be involved with the procurement amendment then most of Monday afternoon. I can only assume.

Mr. DOLE. We hope to start early Monday morning, and we can set that aside, obviously, if other amendments would be taken up.

Mr. PRYOR. I thank the majority leader.

ORDER TO REPORT DOD AUTHORIZATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Committee on Armed Services have until 8 p.m. this evening to report a bill on DOD authorization.

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

ELECTION OF ERNEST E. GARCIA AS THE SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

Mr. DOLE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The bill clerk read as follows:

A resolution (S. Res. 167) electing Ernest E. Garcia as the Sergeant at Arms and Doorkeeper of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, it is a pleasure for me to offer this resolution with respect to the election of our new Sergeant at Arms, Ernest Garcia of Garden City, KS.

Ernie Garcia has been, and I know will continue to be, a fine public servant.

Since February, he has ably served as the Deputy Sergeant at Arms and has demonstrated a excellent understanding of the responsibilities of that important office.

Before becoming Deputy Sergeant at Arms, Ernie was a Deputy Assistant Secretary of Defense, where he was a valued and trusted aide to Secretary Caspar Weinberger. In fact, he was awarded the DOD Medal for Distinguished Public Service. At the presentation, Secretary Weinberger said:

Mr. Garcia's overall performance of duty has consistently been of the highest caliber. His dedication, patriotism, loyalty, and integrity, are in keeping with the highest standards of the Department of Defense and reflect great credit on himself, the Department, and the United States.

The Senator from Kansas wholeheartedly agrees with my good friend Cap. I have worked closely with Ernie for many years, both in Washington and Kansas—on the campaign trail, on the road in Kansas, and here on Capitol Hill. He has been a valuable asset to my staff, and has never forgotten his Garden City, KS, roots.

I know that the Hispanic community has taken great pride in Ernie's accomplishments, and I am proud to nominate him as the Senate Sergeant at Arms.

In his new role, I am sure Ernie will continue to build upon his enviable record of public service and dedication. He has proven worthy of the responsibility this body will entrust in him. I know Ernie will live up to that trust.

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

The resolution was agreed to, as follows:

Resolved, That Ernest E. Garcia, of Kansas, be, and he is hereby, elected Sergeant at Arms and Doorkeeper of the Senate, beginning June 3, 1985.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

DOD AUTHORIZATION BILL

Mr. DOLE. Mr. President, I have indicated that the DOD authorization bill would be laid down and there would be votes Monday evening. I have now been requested to see if the votes could be delayed until Tuesday morning. I will make that inquiry of the chairman of the Armed Services Committee and try to report back before we recess this evening.

I ask unanimous consent that no amendments to the DOD authorization bill be in order during Friday's session and prior to 5 p.m. on Monday which have not been authorized by the majority leader and the minority leader.

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

ORDER FOR AMENDMENT NO. 100 TO BE PRINTED

Mr. DOLE. Mr. President, I ask unanimous consent that amendment No. 100 be printed.

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

CRISIS LINK BETWEEN THE UNITED STATES AND THE SOVIET UNION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 123 (S.J. Res. 108), upgrading the United States-Soviet hotline.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The bill clerk read as follows:

A joint resolution (S.J. Res. 108) authorizing the Secretary of Defense to provide to the Soviet Union on a reimbursable basis, equipment, and services necessary for an improved United States/Soviet Direct Communication Link for crisis control.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. WARNER. Mr. President, I am delighted to have joined Senator NUNN in sponsoring this important legislation, which was unanimously approved by the Armed Services Committee on May 2 and now has 39 cosponsors. The purpose of this joint resolution is to authorize the Secretary of Defense to provide to the Soviet Union, on a reimbursable basis, equipment and services needed to implement the July 17, 1984, agreement between the United States and the Soviet Union to expand and improve the operation of the United States/Soviet direct communications link, commonly known as the hotline.

Mr. President, let me briefly review the history of the hotline. In June 1963, the United States and the Soviet Union agreed in a memorandum of understanding to establish a direct communications link [DCL] for use in time of emergency. Each agreed to ensure prompt delivery to its head of government any communications received over the DCL from the other head of government. The memorandum of understanding was negotiated and signed by the heads of the United States and Soviet delegations to the 18 Nation Disarmament Conference in Geneva and the DCL was activated in August 1963.

Eight years later, the DCL was updated by a September 30, 1971, agreement negotiated by a special working group of the two SALT delegations and signed by the United States Secretary of State and the Soviet Foreign Minister. This agreement provided for the addition of two satellite circuits to the DCL, one using the Soviet Molniya II satellite system and the other the United States Intelsat system. Those two circuits became operational in January 1978.

A second special working group of the two SALT delegations simultaneously negotiated a related agreement on measures to reduce the risk of outbreak of Nuclear war between the United States and U.S.S.R., which was signed on the same day, to notify the other in advance of any planned missile launch extending beyond its national territory in the direction of the other, and for each to notify the other immediately in the event of certain situations which could create a risk of nuclear war. The parties agreed that they would use the DCL to transmit urgent information in situations requiring prompt clarification.

In May 1983, President Reagan proposed to the Soviet Union three measures to improve the bilateral communications network between the two countries: the addition of a high-speed facsimile capability to the hotline; the establishment of a joint military communications link [JCML]; and the establishment of high-speed data links between each government and its embassy in the other's capital.

The Secretary of Defense had recommended those proposals to the President following a full and complete study of possible initiatives for enhancing international stability and reducing the risk of nuclear war. That examination, which involved all concerned U.S. Government agencies, was mandated by an amendment to the fiscal year 1983 DOD Authorization Act introduced by Senators Jackson, Nunn, and I, directing the Secretary to study a number of crisis control measures, including an improved Hotline. The Secretary of Defense transmitted its results and recommendations in his April 1983 Report to the Congress on Direct Communications Links and Other Measures to Enhance Stability.

United States/Soviet negotiations on improving bilateral communications links opened in Moscow in August 1983, and subsequent rounds were held in Washington in January 1984, in Moscow in April 1984, and in Washington in July 1984. On July 17, 1984 President Reagan announced that an agreement had been reached.

Mr. President, I ask unanimous consent that a copy of the President's remarks on this occasion be printed in the RECORD at the conclusion of my remarks.

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

(See Exhibit 1.)

Mr. WARNER. Mr. President, under this agreement, a facsimile capability will be added to the hotline, enabling each country for the first time to transmit and receive graphic materials. In addition, the planned improvements will allow the United States and Soviet heads of government to exchange messages more rapidly than they can with the existing teletype. The increase in the speed of communication and the ability to send pictures and maps could be especially critical in future crises.

The direct communications link will now consist of: Three circuits (two satellite circuits plus one wire telegraph circuit); one Earth station in each country for each satellite circuit; terminals in each country linked to the three circuits and equipped with teletype and facsimile equipment.

The agreement specifies that the U.S. Government will sell the Soviet Union at cost the equipment necessary to install and maintain the improved hotline. This transaction, which is expected to cost less than $1 million, will include facsimile equipment, personal computer [PC] equipment, modem equipment, and microprocessor systems to ensure the privacy of these very sensitive communications. Most of this transaction will be completed in the initial sale of the specified equipment to the Soviet Union. However, sales of services and additional equipment, including consumable items, will recur periodically throughout the life of the improved hotline.

Mr. President, under the timetable envisioned by the two governments, the initial items of equipment are to be delivered to the Soviet Union no later than June 30. Accordingly, it is imperative that the Congress act quickly on this legislation to ensure that there is no unnecessary delay in the implementation of this agreement.

Mr. President, I ask unanimous consent that Senators GLENN and ZORINSKY be added as cosponsors of Senate Joint Resolution 108.

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

EXHIBIT 1

STATEMENT BY THE PRESIDENT

I am happy to be able to announce today that we and the Soviet Union have reached agreement to expand and improve the operation of the direct communications link, or the "Hotline."

This agreement is a modest but positive step toward enhancing international stability and reducing the risk that accident, miscalculation, or misinterpretation could lead to confrontation or conflict between the United States and the Soviet Union.

With the addition of a facsimile capability, we will not only be able to exchange messages faster, but for the first time we will be able to send graphic material such as maps or pictures which would play a crucial role in helping to resolve certain types of crises or misunderstandings.

The negotiations which led to this agreement began about 1 year ago, August 1983, based upon a series of proposals that we first made in May 1983.

In developing this and other initiatives designed to reduce the risk of war due to accident, misunderstanding or miscalculation, we had the benefit of excellent advice from a number of key congressional leaders, including Senators WARNER and NUNN and the late Senator Jackson.

I see this agreement as both an appropriate technical improvement to the "Hotline," which has served both our governments well for over 20 years, and as a good example of how we can, working together, find approaches which can move us toward a reduction in the risks of war.

Mr. WARNER. Mr. President, I now yield to my distinguished colleague from Georgia, Senator NUNN.

Mr. NUNN. Mr. President, I join Senator WARNER in expressing my strong support for this legislation.

One year ago, when Senator WARNER and I testified before the Foreign Relations Committee on our nuclear risk reduction resolution (S. Res. 329), I noted that although the United States and the Soviet Union had in large measure been able to avoid confrontations entailing the risk of nuclear war over the past three decades, there were compelling reasons to be concerned about their ability to continue this into the future. Indeed, there are an increasing number of circumstances that could precipitate the outbreak of nuclear war that neither side anticipated or intended, possibly involving terrorist groups or the growing number of nuclear-armed states that will likely exist by the end of the century.

If anything, I am more convinced today than I was then that the establishment of new risk reduction measures is a crucial, indeed imperative, step. Over the past year, we have witnessed three different Soviet military accidents that could easily have been misinterpreted by one side or the other: the errant Soviet cruise missile incident in January and two major explosions in the Soviet Union last year, one at the naval munitions depot at Severomorsk, the other at a munitions factory in western Siberia.

Even more compelling, though, is the shift that both sides are now undertaking in their strategic posture toward a much prompter launch of land-based systems. I will not get into a discussion here as to whether we are talking about launch on confirmed warning of attack or launch under attack. But suffice it to say that as increasingly accurate, MIRV'ed ICBM's like the MX, the SS-18, and the SS-19 make each side more and more vulnerable to a first strike, we are moving inexorably toward a hair trigger retaliatory posture. In these conditions, there is an extraordinary premium placed on avoiding any misinterpretation of nuclear incidents or military activities, and this is precisely the role the upgraded "Hotline" or nuclear risk reduction centers could perform.

In this regard, I also pay tribute to President Reagan for the four part proposal for reducing military tensions which he announced in his May 8 speech to the European Parliament in Strasbourg, France. I hope the Soviet Union will give serious consideration to these proposals.

Mr. President, in its report on Senate Joint Resolution 108, the Armed Services Committee stated that it agrees with President Reagan that the July 17, 1984 agreement will make a "modest but positive" contribution toward improving crisis stability and decreasing the risk that a confronta-

tion or conflict between the United States and the Soviet Union could ever occur as a result of accident, miscalculation or misinterpretation. In accordance with the principle of confidentiality concerning communications between heads of state, the precise number of times that the United States and the Soviet Union have used the system has not been disclosed. However, it is evident that the Hotline has provided invaluable in major crises, including the 1967 and 1973 Arab-Israeli wars. The addition of a fascimile capability and the increase in the speed of communication will further enhance the value of this communications link.

The committee also reviewed this need for new legislative authority. At the request of Senator WARNER and me, the General Counsel of the Department of Defense prepared a memo outlining the legal reasons why new legislation was needed to implement the July 1984 agreement. The General Counsel determined that use of the Arms Export Control Act as authority for providing the specified equipment to the Soviet Union would not appear to be either viable or appropriate. The memo also notes that use of the Secretary of Defense's contingency fund is intended to meet only "emergency or extraordinary expenses which cannot be anticipated or classified," whereas procurement by DOD of equipment needed to maintain the improved Hotline is expected to recur over the lifetime of the system. I ask unanimous consent that this memo be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. NUNN. Mr. President, a final issue considered by the committee concerned the transfer of technology. On March 22, Senator WARNER and I wrote Assistant Secretary of Defense Richard Perle to request his assessment of the technology transfer aspects of the proposed sale. In a March 25 reply, Assistant Secretary Perle advised the Senators that prior to deciding the final configuration of the proposed upgrade:

> The Department of Defense examined each component proposed for that system in the context of applicable transfer of technology regulations.

Assistant Secretary Perle stated that based on this review, DOD determined that:

> The sale of those components for this purpose is entirely consistent with current U.S. law and policy regarding trade with the Soviet Union.

I ask unanimous consent that this letter be printed in the RECORD at the end of my remarks.

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

(See exhibit 3.)

Mr. NUNN. Mr. President, in closing let me say that I am especially gratified that over the past several years, Congress has been in the forefront of efforts to devise practical measures to reduce the risk that these weapons might ever be useful as a result of accident or miscalculation. I believe that this legislation moves us closer toward realizing these goals, and I hope that it might provide an impetus for more comprehensive measures, such as the nuclear risk reduction center concept which the Senate endorsed 82 to 0 last summer.

EXHIBIT 2

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, April 3, 1985.

LEGAL MEMORANDUM

Subject: Sale of DCL Equipment to the USSR.

The U.S. Government proposes to sell DCL equipment to the Soviet Union. Attached is a memorandum outlining three alternatives approached to achieving the requisite legal authority for the proposed transaction.

The first approach (a security assistance sale) does not now appear to be viable because it is conditioned upon our obtaining from the Soviets certain non-retransfer and security assurances, and because use of the Arms Export Control Act as authority for providing equipment to the USSR would not appear to be appropriate.

The second approach (use of the Secretary's contingency fund authorized by 10 USC § 140) is feasible. The commitment of an amount from this fund sufficient to cover the cost of the equipment and services to be provided to the Soviets has been made. A disadvantage of this approach is that a limited amount is appropriated for the contingency fund. Therefore, to the extent the fund is used for DCL purposes, it will not be available for other critical needs. This disadvantage cannot be avoided by reprogramming other funds into the contingency fund. 10 USC § 140 limits the total amount that can be expended from the contingency fund in any year to the amount appropriated for this purpose in the DoD Appropriation Act.

Accordingly, the third approach (a Joint Resolution authorizing the use of any DoD funds) is strongly preferred. This approach would involve virtually no cost to the Treasury since the Soviet Union will reimburse the U.S. Moreover, the Joint Resolution would have the great advantage of permitting DoD to avoid depletion of the contingency fund. In addition, this approach is more appropriate for funding foreseeable expenditures that may well be necessary in the future to maintain the system, since the contingency fund is designed to meet only "emergency or extraordinarly expenses which cannot be anticipated or classified."

CHAPMAN B. COX.

DEPARTMENT OF DEFENSE,
OFFICE OF GENERAL COUNSEL,
Washington, DC, September 21, 1984.

MEMORANDUM

Subject: Legal Authority for the Sale of DCL Equipment to the USSR (U).

You have requested the opinion of this office regarding the legal implications of various possible funding approaches for a US-Government sale of equipment and spare parts to the USSR in exchange for Soviet payment. The following approaches appear available to carry out such a transaction.

1. A security assistance sale. Although Section 620(f) of the Foreign Assistance Act (FAA) prohibits furnishing any assistance under the FAA to the USSR, that prohibition does not extend to transactions undertaken under other statutory authority such as the Arms Export Control Act (AECA). Section 3 of the AECA provides four conditions of eligibility for a country to purchase defense articles or defense services under the AECA:

(1) The President must find that the furnishing of defense articles (and defense services) to such country will strengthen the security of the United States and promote world peace;

(2) The country must have agreed not to transfer title to, or possession of, any defense article or related training or other defense service so furnished to it to anyone not an officer, employee or agent of that country and not to use or permit the use of such defense article or related training or other defense service unless the consent of the President has first been obtained;

(3) The country shall have agreed that it will maintain the security of such article and will provide substantially the same degree of security protection afforded to such article by the United States Government;

(4) The country is otherwise eligible to purchase or lease defense articles or defense services.

Accordingly, in order for the United States Government to sell DCL equipment to the USSR as a security assistance sale, the President must sign a finding that the furnishing of DCL equipment to the USSR will strengthen the security of the United States and promote world peace. It is possible for such a finding to be limited to declaring a country eligible for just one sale. The U.S.S.R. must commit to the non-retransfer and security assurances detailed in paragraphs (2) and (3) above.

The U.S.S.R. must also be "otherwise eligible" to purchase this equipment. This requirement means that there must be no other statutory prohibition on such a sale (e.g., such a provision as the Congressional cutoff of sales to Chile) and that the proposed sale must fall within the scope of the Arms Export Control Act. The objectives of the AECA include encouraging regional arms control and disarmament agreements and discouraging arms races. The purposes for which sales under the AECA are authorized are limited to: internal security; legitimate self defense; permitting the recipient country to participate in regional or collective arrangements of measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to participate in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security; and enabling foreign military forces in less developed friendly countries to construct public works and to engage in other activities helpful to the social and economic development of such friendly countries. It would appear that participation in the DCL is a measure consistent with the Charter of the United Nations.

In order to obtain the required Presidential Determination making a country eligible under the AECA, the Secretary of State prepares a Memorandum for the President justifying the proposed Determination. Copies of a Presidential Determination and

the State Department's justification Memorandum for that determination are attached to this memorandum for your information.

2. Use of the Secretary of Defense's discretionary funds. 10 U.S.C. § 140 authorizes the Secretary of Defense to provide, within the limitation of appropriations made for the purpose, for any emergency or extraordinary expense which cannot be anticipated or classified. When it is so provided in such an appropriation, the funds may be spent on approval or authority of the Secretary for any purpose he deems proper. Expenditures made under this authority must be reported on a quarterly basis to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives. There is no provision for reimbursement in 10 U.S.C. § 140, since this authority was not originally designed for a purpose such as that under consideration. However, it would be possible, if sufficient funds remain in the appropriation, for the Secretary to direct that DCL equipment be purchased using those funds and provided to the U.S.S.R., although any reimbursement from the U.S.S.R. for such equipment would have to be returned to Miscellaneous Receipts in the U.S. Treasury.

3. A specific Congressional authorization. Instead of using either of the procedures described above, it would be possible to seek new law authorizing the United States to sell the requisite equipment to the USSR. This approach would allow the US to tailor the statutory authorization to the terms of the proposed sale, instead of having to tailor the sale to the statute, as in (1) above. It could also allow the US Government agency purchasing the equipment to be sold to the USSR to put the receipts from the sale back into its own appropriations, which would not be possible under (2) above. The drawback to this approach is the time required to obtain new law. Congress is due to adjourn on October 5, 1984 and probably will not reconvene until the new Congress is sworn in in January 1985. Your decision concerning adoption of this approach will therefore turn, in part, on the necessary schedule for the sale of this equipment to the USSR.

JOHN H. MCNEILL,
Assistant General Counsel (International).

EXHIBIT 3

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, March 25, 1985.

In reply refer to: I-85/07907.

Hon. SAM NUNN,
U.S. Senate,
Washington, DC.

DEAR SENATOR NUNN: Thank you for your letter of March 22, 1985, requesting my comments on the legislation which you propose to introduce to facilitate the upgrade of the Direct Communications Link, which the United States and the Soviet Union agreed to undertake in an Exchange of Notes, dated July 17, 1984.

As President Reagan indicated at the time of signature of this agreement, the upgrade of the Hotline by the addition of a facsimile capability is a modest, but positive step toward enhancing international stability and reducing the risk that accident, miscalculation or misinterpretation could lead to confrontation or conflict between the United States and the Soviet Union. The success of this initiative is due in no small measure to your continued support and advice. Your efforts now, to ensure the smooth and efficient implementation of the agreement, are welcomed by all who believe that it is critical that our leaders be able to communicate rapidly and comprehensively in the event of crisis. I heartily endorse your proposed legislation for this purpose.

I want as well to assure you that the sale of the facsimile system to the Soviet Union is consistent with US technology transfer policies. Prior to the United States' proposing the configuration for the addition of a facsimile capability to the Direct Communications Link, the Department of Defense examined each component proposed for that system in the context of applicable transfer of technology regulations. We determined that the sale of those components for this purpose is entirely consistent with current U.S. law and policy regarding trade with the USSR. Sale of the quantity of equipment necessary to maintain the reliability of the Soviet part of the Hotline requires COCOM approval, which the U.S. will seek.

I want to underscore for the Congress that there is a great deal of difference between selling the USSR equipment for the specific purpose of improving the Direct Communications Link and allowing the Soviet Union unfettered access to U.S. and Allied high technology products. We will continue to ensure that sales to the Soviet Union are closely scrutinized and seek to ensure that only those which are consistent with our COCOM obligations and strategic trade controls are permitted to go forward.

RICHARD PERLE.

Mr. BOSCHWITZ. Mr. President, I rise as a cosponsor and strong supporter of this very important resolution to upgrade the direct communications link between Washington and Moscow. I believe that communications—good, clear communications—is a key to crisis control and an important confidence-building measure between the superpowers.

The so-called hotline, born out of the Cuban missile crisis, was the result of an effort to improve crisis management. It was an essential first step toward reducing the risk of nuclear war. Since 1963, the hotline has been used to prevent any number of crisis from becoming runaway confrontations. It has served us well; however, now the hotline is a crude device compared to today's sophisticated communications. The need to increase the speed of communications and rapidly exchange graphic data over state-of-the-art equipment is very important, and an upgrade that is long overdue. William Ury tells us in his recent book, "Beyond the Hotline," that the time available for United States-Soviet leaders to respond to a crisis is shrinking as the flight times of missiles grow shorter. If this means selling the required equipment in order to get the Russians up to speed, let's waste no more time doing it.

With today's hi-tech computers setting on the desks of many of our grade school students, I am sure the American public would fail to understand why a vital communications link such as the hotline, consists essentially of 1960 teletype technology. Technological improvements to this important tool for bilateral crisis prevention need to be undertaken now.

I am very pleased to join in this effort and I wish to commend my colleagues, Senators WARNER and NUNN for their distinguished leadership in proposing practical measures to reduce the risk of nuclear war. Moreover, this legislation will clearly lend practical support to President Reagan's new four-part proposal, recently announced in Strasbourg, for reducing military tensions between the United States and the Soviet Union. I strongly support these confidence-building measures. Furthermore, I hope that this legislation and the President's proposal receive broad, bipartisan support. Surely, enhanced communications between adversaries is the first step toward improved understanding and reducing conflict.

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution (S.J. Res. 108) with its preamble, reads as follows:

S.J. RES. 108

Whereas section 1123(a) of the Department of Defense Authorization Act, 1983 (Public Law 97-252), directed the Secretary of Defense "to conduct a full and complete study and evaluation of possible initiatives for improving the containment and control of the use of nuclear weapons, particularly during crises";

Whereas the Congress directed that the same study should address several specific measures for building confidence between the United States and the Soviet Union, including an improved Direct Communications Link for crisis control;

Whereas the Secretary of Defense responded to that congressional mandate with a report entitled "Report to the Congress on Direct Communications Links and Other Measures to Enhance Stability" in which the Secretary proposed several improvements to existing United States-Soviet mechanisms for the prevention and resolution of crises, including the addition of a facsimile capability to the United States/Soviet Union Direct Communications Link;

Whereas the President of the United States presented the recommendations of the Secretary of Defense to the Government of the Soviet Union in May 1983;

Whereas the United States and the Soviet Union commenced negotiations on bilateral communications improvements in August 1983, and on July 17, 1984, concluded the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade in which the two governments agreed to add a facsimile capability to the Direct Communications Link;

Whereas the Congress endorses that agreement and remains committed to all possible measures to facilitate the resolu-

tion of international crises and to limit the danger of conflict;

Whereas the Secretary of Defense is responsible for the installation, maintenance, and operation of the Direct Communications Link equipment for the United States; and

Whereas the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade provides that the United States Government will provide to the Union of Soviet Socialist Republics, at cost, the equipment and services necessary for the Soviet Union part of the improved Direct Communications Link: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Defense may provide to the Soviet Union, as provided in the Exchange of Notes Between the United States of America and the Union of Soviet Socialist Republics Concerning the Direct Communications Link Upgrade, concluded on July 17, 1984, such equipment and services as may be necessary to upgrade or maintain the Soviet Union part of the Direct Communications Link agreed to in the Memorandum of Understanding between the United States and the Soviet Union signed June 20, 1963. The Secretary shall provide such equipment and services to the Soviet Union at the cost thereof to the United States.

SEC. 2. (a) The Secretary of Defense may use any funds available to the Department of Defense for the procurement of the equipment and providing the services referred to in the first section.

(b) Funds received from the Soviet Union as payment for such equipment and services shall be credited to the appropriate account of Department of Defense.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

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

The motion to lay on the table was agreed to.

DISASTER RELIEF ACT AUTHORIZATION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 120, S. 1023, Disaster Relief Act Authorization.

The PRESIDING OFFICER. The bill will be stated by title.

The bill clerk read as follows:

A bill (S. 1023) to extend authorizations for appropriations for the Disaster Relief Act of 1974, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 606 of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5202), is amended by striking out all after "501," and inserting in lieu thereof "$194,000,000 is authorized to be appropriated to the President to carry out this Act for fiscal year 1986 and $6,400,000 is authorized to be appropriated to the Federal Emergency Management Agency for administrative expenses in fiscal year 1986.".

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

ETHNIC AMERICAN DAY

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 112, Senate Joint Resolution 32.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The bill clerk read as follows:

A joint resolution (S.J. Res. 32) to authorize and request the President to designate September 15, 1985, as "Ethnic American Day".

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

AMENDMENT NO. 146

(Purpose: To change the date of Ethnic American Day from September 15, 1985, to September 21, 1986)

Mr. DOLE. Mr. President, I send to the desk an amendment on behalf of Senator PRESSLER.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. Pressler, proposes an amendment numbered 146:

On page 2, line 4, strike out "15, 1985" and insert in lieu thereof "21, 1986".

Mr. PRESSLER. Mr. President, this amendment merely changes the date of Ethnic American Day to September 21, 1986. The reason for this change is to give national ethnic organizations more time to organize events for this occasion.

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

The amendment (No. 146) was agreed to.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

The preamble was agreed to.

The joint resolution (S.J. Res. 32), with its preamble, reads as follows:

S.J. RES. 32

Whereas the United States of America is a haven for victims of religious and political persecution and for those who seek freedom and opportunity;

Whereas the United States of America has welcomed oppressed and deprived persons and granted them refuge and citizenship;

Whereas ethnic Americans love the United States of America and have shed their blood in defense of America and its freedoms;

Whereas ethnic Americans have made outstanding contributions in the fields of agriculture, labor, arts, science, medicine, business, and government, and to the quality of life in these United States; and

Whereas designation of an "Ethnic American Day" would contribute to a greater appreciation of the rich ethnic heritage of this Nation and to the unity of all its people: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate September 21, 1986, as "Ethnic American Day" and to call upon the people of the United States to acknowledge and advance mutual understanding and friendship among all Americans regardless of their ethnicity.

AMENDMENT

(Purpose: Amendment to the title)

Mr. DOLE. Mr. President, I send an amendment to the title to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

Amend the title so as to read joint resolution to authorize and request the President to designate September 21, 1986, as Ethnic American Day.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

Without objection, the amendment to the title is agreed to and the title, as amended, is agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was passed and the title, as amended, was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate go into executive session to consider numerous calendar items.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. DOLE. The calendar items are Nos. 118, 119, 144, 164, 177, 178, 179, 180, 181, 182, 183, and 184.

Mr. BYRD. Mr. President, reserving the right to object, may I say to the distinguished majority leader on this side among those calendar orders which he has stated are the following which have been cleared and concerning which we are ready to proceed:

Calendar Order Nos. 144, 164, 177, 178, 179, 180, 181, 182, 183, and 184.

Mr. DOLE. But not 118 or 119?

Mr. BYRD. Yes; I think, if I may say to the distinguished majority leader, I would hope to have those cleared by tomorrow.

Mr. DOLE. Fine.

Mr. BYRD. I, myself, had a hold on each of them and there may be other holds, but I am ready to clear the one now and probably will be ready on the second one tomorrow.

Mr. DOLE. All right.

The PRESIDING OFFICER. The nominations will be stated.

EXPORT-IMPORT BANK OF THE UNITED STATES

The legislative clerk read the nomination of Richard H. Hughes, of Oklahoma, to be a member of the Board of Directors of the Export-Import Bank of the United States.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF STATE

The legislative clerk read the nomination of Vernon A. Walters, of Florida, to be the Representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the Representative of the United States of America in the Security Council of the United Nations.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

The legislative clerk read the nominations of Pauline Crowe Naftzger, of California, and George S. Rosborough, Jr., of Missouri, to be Members of the National Museum Services Board.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

NATIONAL SCIENCE FOUNDATION

The legislative clerk read the nomination of John H. Moore, of California, to be Deputy Director of the National Science Foundation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NATIONAL COUNCIL ON THE HANDICAPPED

The legislative clerk read the nominations of Jeremiah Milbank, of Connecticut; Justin W. Dart, Jr., of Texas; and Roxanne S. Vierra, of Colorado, to be members of the National Council on the Handicapped.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

ARMY

The legislative clerk read the nominations of Lt. Gen. Alexander M. Weyand to be lieutenant general (retired), and Maj. Gen. Charles W. Dyke to be lieutenant general.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

NAVY

The legislative clerk read the nominations of Vice Adm. James A. Sagerholm to be vice admiral (retired), and Rear Adm. Kendall E. Moranville to be vice admiral.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed.

Mr. DOLE. Mr. President, I move to reconsider the votes by which the nominations were confirmed.

Mr. BYRD. Mr. President, 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 immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

SAFE DRINKING WATER AMENDMENTS OF 1985

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar Order No. 131, S. 124, the safe drinking water amendments of 1985.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 124) entitled the "Safe Drinking Water Amendments of 1985".

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota?

Mr. BYRD. Mr. President, there is no objection on this side.

There being no objection, the Senate proceeded to consider the bill (S. 124) entitled the "Safe Drinking Water Amendments of 1985," which had been reported from the Committee on Environment and Public Works, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 124

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

SHORT TITLE

SECTION 1. This Act may be cited as the "Safe Drinking Water Act Amendments of 1985".

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Sec. 10. Restrictions on underground injection of hazardous waste and regulation of State programs.
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PUBLIC WATER SYSTEMS

NATIONAL PRIMARY DRINKING WATER REGULATIONS

SEC. 2. (a) Section 1412(a) of the Safe Drinking Water Act is amended to read as follows:

"(a) Effective on the date of enactment of the Safe Drinking Water Act Amendments of 1985, each national interim primary drinking water regulation promulgated under this section before such date of enactment shall be deemed to be a national primary drinking water regulation under subsection (b). No such regulation shall be required to comply with the standards set forth in subsection (b)(2) unless such regulation is amended to establish a different maximum contaminant level after the date of enactment of such amendments.".

(b) Section 1412(b) of the Safe Drinking Water Act is amended by striking paragraphs (1), (2), and (3), and inserting in lieu thereof the following:

[**"(b)(1)(A) In the case of the 14 contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 47, Federal Register, page 9352, not later than 15 months after the date of enactment of the Safe Drinking Water Act Amendments of 1985, the Administrator shall—**

[**"(i) simultaneously propose maximum contaminant level goals and national primary drinking water regulations and, after opportunity for public comment, simultaneously publish maximum contaminant level goals and promulgate national primary drinking water regulations for those contaminants which may have any adverse effect on the health of persons; or**

[**"(ii) make and publish in the Federal Register a determination that promulgation of a national primary drinking water regulation is not justified under the criterion in**

clause (i). Such determination by the Administrator shall be considered a final agency action for purposes of judicial review under chapter VII of title V of the United States Code.

[“(B) In the case of each of the contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 48, Federal Register, page 45502, not later than 36 months after the date of enactment of the Safe Drinking Water Act Amendments of 1985, the Administrator shall—

[“(i) simultaneously propose maximum contaminant level goals and national primary drinking water regulations and, after opportunity for public comment, simultaneously publish maximum contaminant level goals and promulgate national primary drinking water regulations for those contaminants which may have any adverse effect on the health of persons; or

[“(ii) make and publish in the Federal Register a determination that promulgation of a national primary drinking water regulation is not justified under the criterion in clause (i). Such determination by the Administrator shall be considered a final agency action for purposes of judicial review under chapter VII of title V of the United States Code.

[“(C)(i) The Administrator shall publish maximum contaminant level goals and simultaneously promulgate national primary drinking water regulations for each substance (other than a substance referred to in subparagraph (A) or (B) for which a national primary drinking water regulation was promulgated) which, in the judgment of the Administrator, may have any adverse effect on the health of persons. On January 1, 1988, and at annual intervals thereafter, the Administrator shall publish a list establishing priorities for the review of substances (other than substances referred to in subparagraph (A) or (B)) which may require regulation under this Act in order to prevent known or anticipated adverse effects on the health of persons. Such priorities shall be based upon the extent to which such contaminant occurs in public water systems throughout the United States or on the known or anticipated adverse effects of such substance on the health of persons. In establishing such priorities the Administrator's consideration shall include, but not be limited to, substances regulated as toxic water pollutants under section 307 of the Clean Water Act and substances registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act.

[“(ii) For each contaminant listed on the priority list, the Administrator shall, within 3 years of listing—

[“(I) simultaneously propose a maximum contaminant level goal and a national primary drinking water regulation and, after opportunity for public comment, simultaneously publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for those contaminants which may have any adverse effect on the health of persons; or

[“(II) make and publish in the Federal Register a determination that promulgation of a national primary drinking water regulation is not justified under the criterion in subclause (I). Such determination by the Administrator shall be considered a final agency action for purposes of judicial review under chapter VII of title V of the United States Code.]

“(b)(1) In the case of those contaminants listed in the Advance Notice of Proposed Rulemaking published in volume 47, Federal Register, page 9352, and in volume 48, Federal Register, page 45502, the Administrator shall simultaneously publish maximum contaminant level goals and promulgate national primary drinking water regulations—

“(A) not later than 12 months after the date of enactment of the Safe Drinking Water Act Amendments of 1985 for not less than 9 of those listed contaminants;

“(B) not later than 24 months after the date of enactment for not less than 40 of those listed contaminants; and

“(C) not later than 36 months after the date of enactment for the remainder of such listed contaminants.

“(2)(A) Not later than January 1, 1988, and at three year intervals thereafter, the Administrator shall publish a list of contaminants which, in the judgment of the Administrator, may have an adverse effect on the health of persons and are known or anticipated to occur in public water systems.

“(B) For the purpose of establishing such list, the Administrator shall form an advisory working group including members from the National Toxicology Program and the Environmental Protection Agency's Offices of Drinking Water, Pesticides, Toxic Substances, Ground Water, Solid Waste and Emergency Response and any others the Administrator deems appropriate. The Administrator's consideration of priorities shall include, but not be limited to, substances referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act, and substances registered as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act.

“(C) Not later than 24 months after listing, the Administrator shall simultaneously propose a maximum contaminant level goal and a national primary drinking water regulation for not less than 25 contaminants from the priority list established under paragraph (2).

“(D) Not later than 36 months after listing, the Administrator shall simultaneously publish a maximum contaminant goal and promulgate a national primary drinking water regulation for those contaminants identified under subparagraph (C).

[“(2)] *“(3)* Each maximum contaminant level goal established under this subsection shall be set at the level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. Each national primary drinking water regulation for a contaminant for which a maximum contaminant level goal is established under this subsection shall specify a maximum level for such contaminant which is as close to the maximum contaminant level goal as is feasible.

[“(3) The Administrator may, after opportunity for public comment, change maximum contaminant level goals, or the list established under paragraph (C), and shall simultaneously with such change, amend the national primary drinking water regulations concerned accordingly.]

“(4) For the purposes of this subsection, the term ‘feasible’ means feasible with the use of the best technology, treatment techniques and other means which the Administrator finds, after examination for efficacy under field conditions and not solely under laboratory conditions, are available (taking cost into consideration). For the purpose of paragraph (2), the use of granular activated carbon is available (taking costs into consideration) for the control of synthetic organic chemicals, and any technology, treatment technique, or other means found to be the best available for the control of synthetic organic chemicals must be at least as effective in controlling synthetic organic chemicals as the use of granular activated carbon.

“(5) Each national primary drinking water regulation which establishes a maximum contaminant level shall list the technology, treatment techniques, and other means which the Administrator finds to be feasible for purposes of meeting such maximum contaminant level, but a primary drinking water regulation under this paragraph shall not require that a specified technology, treatment technique, or other means be used for purposes of meeting such *maximum* contaminant level.

“(6)(A) The Administrator is authorized to promulgate a national primary drinking water regulation that requires the use of a treatment technique in lieu of establishing a maximum contaminant level, if the Administrator makes a finding that it is not economically or technologically feasible to ascertain the level of the contaminant. In such case, the Administrator shall identify those treatment techniques which, in the Administrator's judgment, would prevent known or anticipated adverse effects on the health of persons to the extent feasible. Such regulations shall specify each treatment technique known to the Administrator which meets the requirements of this paragraph, but the Administrator may grant a variance from any such specified treatment technique in accordance with section 1415(a)(3).

“(B) If any contaminant referred to in paragraphs (b)(1) (A) or (B) is listed under this paragraph (and a national primary drinking water regulation requiring the use of treatment techniques is simultaneously promulgated under this paragraph for such contaminant), the listing and promulgation under this paragraph shall be made on the date referred to in paragraphs (b)(1) (A) or (B) for the establishment of primary drinking water regulations.

“(C)(i) Not later than [12] *18* months after the enactment of the Safe Drinking Water Act Amendments of 1985, the Administrator shall propose and promulgate national primary drinking water regulations specifying criteria under which filtration (including coagulation and sedimentation, as appropriate) is required as a treatment technique for public water systems supplied by surface water sources. In promulgating such rules, the Administrator shall consider the quality of source waters, protection afforded by watershed management, treatment practices (such as disinfection and length of water storage) and other factors relevant to protection of health.

“(ii) In lieu of the provisions of section 1415 the Administrator shall specify procedures by which the State determines which public water systems within its jurisdiction shall adopt filtration under the criteria of clause (i). The State may require the public water system to provide studies or other information, to assist in this determination. The procedures shall provide notice and opportunity for public hearing on this determination. If the State determines that filtration is required, the State shall prescribe a schedule for compliance by the public water system with the filtration requirement. A schedule shall require compliance [as expeditiously as practicable (as the State may reasonably determine.)] *within 18 months of a determination made under clause (iii).*

“(iii) Within 18 months from the time that the Administrator establishes the crite-

ria and procedures in this subparagraph, a State with primary enforcement responsibility shall adopt any necessary regulations to implement this subparagraph. Within [2 years] *12 months* of adoption of such regulations the State shall make determinations regarding filtration for all the public water systems within its jurisdiction supplied by surface waters.

"(iv) If a State does not have primary enforcement responsibility for public water systems, the Administrator shall have the same authority to make the determination in clause (ii) in such State as the State would have under that clause.

"(v) Any filtration requirement or schedule under this subparagraph shall be treated as if it were a requirement of a national primary drinking water regulation.

"(D) *Not later than 36 months after the enactment of the Safe Drinking Water Act Amendments of 1985,* [The] *the* Administrator shall propose and promulgate regulations requiring disinfection as a treatment technique for all public water systems[. The] *and the* Administrator shall *simultaneously* promulgate a rule specifying criteria that will be used by the Administrator or delegated State authorities to grant variances from this requirement according to the provisions of sections 1415(a)(1)(B) and 1415(a)(3)[, prior to implementation of this paragraph]. The Administrator or the delegated State authority shall, to the extent feasible, provide technical assistance to small public water systems in complying with this [subsection] *subparagraph.".*

(c) Paragraphs (4) and (5) of section 1412(b) of the Safe Drinking Water Act are amended by striking "Revised national" both times the words occur and inserting both times in lieu thereof "National". Paragraphs (4), (5), and (6) of section 1412(b) of the Safe Drinking Water Act are redesignated as paragraph (7), (8), and (9) respectively.

(d) Paragraph (7) of the Safe Drinking Water Act as redesignated by subsection (c), is amended by adding at the end thereof the following: "Such review shall include an analysis of innovations or changes in technology, treatment techniques or other activities that have occurred over the previous three-year period and that may provide for greater protection of the health of persons and the findings of such review shall be published in the Federal Register. If, after opportunity for public comment, the Administrator concludes that changes in technology, treatment techniques or other means are not available to permit greater protection of the health of persons than that afforded by the existing regulations, an explanation of such conclusion, shall be published in the Federal Register.".

[(d)] *(e)* Section 1412(e) of the Safe Drinking Water Act is amended to read as follows:

"(e) The Administrator shall provide the Science Advisory Board, established under the Environmental Research, Development and Demonstration Act of 1978, an opportunity to comment prior to proposal *or during the public comment period* [of] *on* a maximum contaminant level goal and national primary drinking water regulation.".

ENFORCEMENT

SEC. 3. (a) Section 1414(a)(1)(A) of the Safe Drinking Water Act is amended by inserting "and such public water system" after the words "notify the State".

(b) Section 1414(a)(1)(B) of the Safe Drinking Water Act is amended to read as follows:

"(B) If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order under subsection (g) requiring the public water system to comply with such regulation or requirement or shall commence a civil action under subsection (b).".

(c) Section 1414(a)(2) of the Safe Drinking Water Act is amended by striking the words "he may commence a civil action under subsection (b)" and inserting the following: ["he"] *"the Administrator* shall issue an order under subsection (g) requiring the public water system to comply with such regulation or requirement or shall commence a civil action under subsection (b)".

(d) Section 1414(b) of the Safe Drinking Water Act is amended by—

(1) adding "or with an order issued under subsection (g)" after "drinking water regulation" in the first sentence;

(2) deleting "willful" immediately after "there has been a" in the second sentence; and

(3) striking "$5,000" and substituting "$25,000".

[(d)] *(e)* Section 1414 of the Safe Drinking Water Act is amended by adding at the end thereof the following new subsection:

"(g)(1) In any case in which the Administrator is authorized to bring a civil action under this section with respect to any regulation, schedule, or other requirement, the Administrator also may issue an order to require compliance with such regulation, schedule, or other requirement.

"(2) An order issued under this subsection shall not take effect until after notice and opportunity for public hearing and, in the case of a State having primary enforcement responsibility, until after the Administrator has provided the State with an opportunity to confer with the Administrator regarding the proposed order. A copy of any order proposed to be issued under this subsection shall be sent to the appropriate State agency of the State involved if the State has primary enforcement responsibility for public water systems in that State. Any order issued under this subsection shall state with reasonable specificity the nature of the violation. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be issued to appropriate corporate officers.

"(3)(A) Any person who violates, fails, or refuses to comply with an order under paragraph (2) shall be liable to the United States for a civil penalty of not more than $25,000 per day of violation.

"(B) Whenever any civil penalty sought by the Administrator under this paragraph does not exceed a total of $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5 of the United States Code. [The Administrator shall have the discretion to compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection against any person.]

"(C) Whenever a civil penalty sought by the Administrator exceeds $5,000, the penalty shall be assessed by a civil action brought by the Administrator in the appropriate United States district court (as determined under the provisions of title 28 of the United States Code).

"(D) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Administrator, the Attorney General shall recover the amount for which such person is liable in any appropriate district court of the United States. In any such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.".

(e) Section 1414 of the Safe Drinking Water Act is amended by striking the words "Failure by State to Assure" from the title.

PUBLIC NOTIFICATION

SEC. 4. (a) Section 1414(c) of the Safe Drinking Water Act is amended by striking everything after the sentence "The Administrator shall by regulation prescribe the form, manner, and frequency for giving notice under this subsection." to the sentence beginning "The Administrator may also require" and inserting the following: "Within [12] *18* months after the date of enactment of the Safe Drinking Water Act Amendments of 1985, the Administrator shall amend such regulations to provide for different types and frequencies of notice based on the differences between violations which are intermittent or infrequent and violations which are continuous or frequent. Such regulations shall also take into account the seriousness of any potential adverse health effects which may be involved. [Notice of any violation of a maximum contaminant level and any other notice of a violation designated by the Administrator as continuous or posing a serious potential adverse health effect shall be given no less frequently than every three months and in no case shall notice be given less frequently than annually. Such notice shall include notification in a newspaper of general circulation serving the area served by the public water system. Notice under this subsection shall provide a clear and readily understandable explanation of the violation, the steps that the system is taking to] *Notice of any violation of a maximum contaminant level or any other violation designated by the Administrator as posing a serious potential adverse health effect shall be given as soon as possible, but in no case later than 14 days after the violation. Notice of a continuous violation of a regulation other than a maximum contaminant level shall be given no less frequently than every three months. Notice of violations judged to be less serious shall be given no less frequently than annually. Notification of such violations to affected persons shall be as prompt as possible and shall include notification by newspaper and shall include, unless inappropriate, a press release to electronic media and individual mailings. Notice under this subsection shall provide a clear and readily understandable explanation of the violation, any potential adverse health effects, the steps that the system is taking to* correct such violation, and the necessity for seeking alternative water supplies, if any, until the violation is corrected. Until such amended regulations are promulgated, the regulations in effect on the date of the enactment of the Safe Drinking Water Act Amendments of 1985 shall remain in effect.".

VARIANCES

SEC. 5. (a) Section 1415(a)(1)(A) of the Safe Drinking Water Act is amended by striking the word "despite" and inserting in lieu thereof the following: ". A variance may only be issued to a system after the system's".

(b) Section 1415(a)(1)(A) of the Safe Drinking Water Act is amended by striking the word "best" before technology; by striking the word "generally" before the word

"available" and inserting in lieu thereof the [word "best";] *words "the best"*; and by adding after "(taking costs into consideration)." the following: "The Administrator shall propose and promulgate his finding of the best available technology, treatment techniques or other means available for each contaminant for purposes of this subsection at the time he proposes and promulgates a maximum contaminant level for each such contaminant. The Administrator's finding of best available technology, treatment techniques or other means for purposes of this subsection may vary depending on the number of persons served by the system or for other physical conditions related to engineering feasibility and costs of compliance with maximum contaminant levels as considered appropriate by the Administrator.".

(c) Section 1415(a)(1)(A) of the Safe Drinking Water Act is amended by striking the words "within one year of the date" and inserting in lieu thereof "at the time".

(d) Section 1415(a)(1)(A)(ii) of the Safe Drinking Water Act is amended by adding after the words "water system of such" the word "additional".

EXEMPTIONS

SEC. 6. (a) Section 1416(b)(1) of the Safe Drinking Water Act is amended by striking the words "within one year of the date" and inserting in lieu thereof "at the time".

(b) Section 1416(b)(2)(A)(i) of the Safe Drinking Water Act is amended by striking the word "interim" and striking the words "not later than January 1, 1984" and inserting in lieu thereof "not later than 12 months after the date of enactment of the Safe Drinking Water Act Amendments of 1985".

(c) Section 1416(b)(2)(A)(ii) of the Safe Drinking Water Act is amended by striking the word "revised"; and by striking the words "not later than seven years after the date such requirement takes effect" and inserting in lieu thereof "other than a regulation referred to in section 1412(a), 12 months after the date of the issuance of the exemption".

(d) Section 1416(b)(2)(B) of the Safe Drinking Water Act is amended to read as follows:

"(B) The final date for compliance provided in any schedule in the case of any exemption may be extended by the State (in the case of a State which has primary enforcement responsibility) or by the Administrator (in any other case) for a period not to exceed 3 years after the date of the issuance of the exemption if the public water system establishes that—

"(i) the system cannot meet the standard without capital improvements which cannot be completed within the period of such exemption;

"(ii) in the case of a system which needs financial assistance for the necessary improvements, the system has entered into an agreement to obtain such financial assistance; or

"(iii) the system has entered into an enforceable agreement to become a part of a regional public water system; and

the system is taking all practicable steps to meet the standard.

"(C) In the case of a system which does not serve more than 500 service connections and which needs financial assistance for the necessary improvements, an exemption granted under subsection (b)(2)(A) (i) or (ii) may be renewed for one or more additional 2-year periods if the system establishes that it continues to meet the requirements of subsection (B).".

MONITORING FOR UNREGULATED CONTAMINANTS

SEC. 7. (a) Section 1445(a) of the Safe Drinking Water Act is amended by adding at the end thereof the following: "In requiring a public water system to monitor under this subsection, the Administrator may take into consideration the system size and the contaminants likely to be found in the system's drinking water.".

(b) Section 1445(a) of the Safe Drinking Water Act is amended by adding "(1)" after "(a)" and adding the following at the end thereof:

"(2) Not later than 18 months after date of enactment of the Safe Drinking Water Act Amendments of 1985, the Administrator shall promulgate regulations for every public water system to conduct a monitoring program for unregulated contaminants. Such regulations shall require monitoring of drinking water supplied by the system, and shall vary the frequency and schedule of monitoring requirements for systems based on the number of persons served by the system, the source of supply, and the contaminants likely to be found. Each system shall be required to monitor at least once within 5 years of the effective date of such regulations unless the Administrator requires more frequent monitoring.".

"(3) Regulations under paragraph (2) shall list unregulated contaminants for which systems may be required to monitor, and shall include criteria by which the primary enforcement authority in each State could show cause for deletion of a contaminant from the designated list. The primary State enforcement authority may delete contaminants for an individual system, in accordance with these criteria, with an approved assessment of the contaminants potentially to be found in the system. [Any such State must submit an assessment to the Administrator which shall be regarded as approved 60 days after its submission unless the Administrator disapproves the assessment.] *The Administrator shall approve or disapprove such an assessment submitted by a State within 90 days.*

"(4) Public water systems conducting monitoring of unregulated contaminants pursuant to this section shall provide the results of such monitoring to the primary enforcement authority.

["(4)] *"(5)* Notification of the availability of the results of such monitoring program required under paragraph (2), and notification of the availability of the results of the monitoring program referred to in paragraph (5), shall be given to the persons served by the system and the Administrator.

["(5)] *"(6)* The Administrator may waive the monitoring requirement of this subsection for a system which has conducted a monitoring program after January 1, 1983, if the Administrator determines the program to have been consistent with the regulations promulgated under this section.

["(6)] *"(7)* Any system supplying less than 150 service connections shall be regarded as complying with this subsection if such system provides water samples *or the opportunity for sampling* according to the rules established by the Administrator. There are authorized to be appropriated $30,000,000 in the fiscal year ending September 30, 1986 to remain available until expended to carry out the provisions of this subsection.".

TECHNICAL ASSISTANCE

SEC. 8. (a) Section 1442 of the Safe Drinking Water Act is amended by adding the following new subsection:

"(g) The Administrator is authorized to provide technical assistance to small public water systems *or water systems of Indian tribal organizations* to enable such systems to achieve and maintain compliance with national drinking water regulations. Such assistance may include 'circuit-rider' programs, training, and preliminary engineering studies. There are authorized to be appropriated to carry out this subsection $10,000,000 for each of the fiscal years 1986 through [1989.] *1990. Of this sum, at least 5 per centum shall be utilized for technical assistance to Indian tribal organizations.*".

TAMPERING WITH PUBLIC WATER SYSTEMS

SEC. 9. Part D of the Safe Drinking Water Act is amended by adding the following new section at the end thereof:

"TAMPERING WITH PUBLIC WATER SYSTEMS

"SEC. 1432. (a) Any person who tampers with a public water system shall be fined not more than $50,000, or imprisoned for not more than 5 years, or both.

"(b) Any person who attempts to tamper, or makes a threat to tamper, with a public drinking water system shall be fined not more than $20,000, or imprisoned for not more than 3 years, or both.

"(c) The Administrator may bring a civil action in the appropriate United States district court (as determined under the provisions of title 28 of the United States Code) against any person who tampers, attempts to tamper, or makes a threat to tamper with a public water system. The court may impose on such person a civil penalty of not more than $50,000 for such tampering or not more than $20,000 for such attempt or threat.

"(d) For the purposes of this section, the term 'tamper' means—

"(1) to introduce a contaminant into a public water system with the intention of harming persons; or

"(2) to otherwise interfere with the operation of a public water system with the intention of harming persons.".

PROTECTION OF UNDERGROUND SOURCES OF DRINKING WATER

RESTRICTIONS ON UNDERGROUND INJECTION OF HAZARDOUS WASTE AND REGULATION OF STATE PROGRAMS

SEC. 10. (a) Section 1421(b)(2)(A), section 1422(c)(1), and section 1425(a)(1) of the Safe Drinking Water Act are each amended by inserting "or natural gas storage operations" after "production".

(b) Part C of the Safe Drinking Water Act is amended by adding at the end thereof the following new [sections] *section*:

["PROHIBITION ON HAZARDOUS WASTE INJECTION

["SEC. 1426. (a) No hazardous waste may be disposed of by underground injection—

["(1) into a formation which contains (within one-quarter mile of the well used for such underground injection) an underground source of drinking water; or

["(2) above such a formation.

The prohibitions established under this section shall take effect 6 months after the enactment of the Hazardous and Solid Waste Amendments of 1984 except in the case of any State in which identical or more stringent prohibitions are in effect before such date. The prohibition established under this subsection shall be treated for purposes of this Act as a prohibition established pursuant to an applicable underground injection program.

[“(b) Subsection (a) shall not apply to the injection of contaminated ground water into the aquifer from which it was withdrawn, if—

[“(1) such injection is—

[“(A) a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or

[“(B) part of corrective action required under the Solid Waste Disposal Act intended to clean up such contamination;

[“(2) such contaminated ground water is treated to substantially reduce hazardous constituents prior to such injection; and

[“(3) such response action or corrective action will, upon completion, be sufficient to protect human health and the environment.

[“(c)(1) Each State which assumes primary enforcement responsibility under this Act shall adopt a program to carry out the prohibition established under paragraphs (1) and (2) of subsection (a) (unless such State has adopted and is carrying out a more stringent prohibition).

[“(2) The Administrator shall promulgate regulations to carry out the prohibitions established under paragraphs (1) and (2) of subsection (a) for each State which is not exercising primary enforcement responsibility under this Act for enforcement of such prohibitions.

[“(d) The term ‘hazardous waste’ as used in this section means any hazardous waste, as defined in the Solid Waste Disposal Act, which is listed or identified under section 3001 of that Act.”.]

“REGULATION OF STATE PROGRAMS

“SEC. [1427] *1426.* (a) No later than 18 months after enactment of the Safe Drinking Water Act Amendments of 1985, the Administrator shall revise regulations issued under this Act to require ground water monitoring at locations and in such a way that would provide the earliest possible detection of fluid migration into, or in the direction of, underground drinking water sources from a class I injection well unless the Administrator or delegated State authority concludes, on the basis of the applicant's demonstration, that such monitoring is not necessary because no potential exists for migration from the injection zone that may be harmful to human health or the environment.

“(b) The Administrator shall submit a report to Congress no later than September 1987, summarizing the results of State surveys, currently required by the Administrator, 3 years after the delegation of the program, under this section to a primary State enforcement authority. The report shall include the following information:

“(1) the numbers and categories of class V wells which discharge nonhazardous waste into or above an underground source of drinking water,

“(2) the primary contamination problems associated with different categories of these disposal wells, and

“(3) recommendations for minimum design, construction, installation, and siting requirements that should be applied to protect [ground water] *underground sources of drinking water* from such contamination wherever necessary.”.

(c)(1) Section 7010(c) of the Solid Waste Disposal Act is amended by striking “sections 7002 and 7003 of this Act” and inserting in lieu thereof “the provisions of this Act”.

(2) Section 7010 of the Solid Waste Disposal Act is renumbered as section 3020 and inserted after section 3019 of such Act.

ENFORCEMENT

SEC. 11. (a)(1) Section 1423(a)(1) of the Safe Drinking Water Act is amended by striking out all after the first sentence and substituting the following: “If beyond the thirtieth day after the Administrator's notification the State has not commenced appropriate enforcement action, the Administrator shall issue an order under subsection (d) requiring the person to comply with such requirement or shall commence a civil action under subsection [(b)(1).”] *(b).”.*

(2) Section 1423(a)(2) of the Safe Drinking Water Act is amended by striking the words “he may commence a civil action under subsection (b)(1)” and substituting the following: [“he] *the Administrator* shall issue an order under subsection (d) requiring the person to comply with such requirement or shall commence a civil action under subsection [(b)(1).”] *(b).”.*

[(3) Section 1423(b)(1) of the Safe Drinking Water Act is amended by striking out the first sentence thereof and substituting the following: “Civil actions referred to in paragraphs (1) and (2), subsection (a) shall be brought in the appropriate United States district court and such court shall have jurisdiction to require compliance with any requirement of an applicable underground injection program.”.

[(b) Section 1423(b)(1) of the Safe Drinking Water Act is amended by striking in the last sentence “$5,000” and substituting “$25,000” and striking “60” and substituting “30”.

[(c) Section 1423 of the Safe Drinking Water Act is amended by adding the following new subsection at the end thereof:

[“(d)(1) In any case in which the Administrator is authorized to bring a civil action under this section with respect to any requirement of an applicable underground injection control program, the Administrator may also issue an order to require compliance with such requirement.

[“(2) An order issued under this subsection shall not take effect until after notice and opportunity for public hearing and, in the case of a State having primary enforcement responsibility for underground water sources (within the meaning of section 1422(b)(3) or 1425(c)) until after the Administrator has provided the State with an opportunity to confer with the Administrator regarding the proposed order. A copy of any order proposed to be issued under this subsection shall be sent to the appropriate State agency involved if the State has primary enforcement responsibility. Any order issued under this subsection shall state with reasonable specificity the nature of the violation. In any case in which an order under this subsection is issued to a corporation, a copy of such order shall be issued to appropriate corporate officers.

[“(3)(A) Any person who violates, or fails or refuses to comply with an order under paragraph (2) shall be liable to the United States for a civil penalty of not more than $25,000 per day of violation.

[“(B) Whenever the civil penalty sought by the Administrator under this paragraph does not exceed $5,000, the penalty shall be assessed by the Administrator after notice and opportunity for a hearing on the record in accordance with section 554 of title 5 of the United States Code. The Administrator shall have the discretion to compromise, modify, or remit, with or without conditions, any civil penalty assessed under this subsection against any person.

[“(C) Whenever the civil penalty sought by the Administrator under this paragraph exceeds $5,000, the penalty shall be assessed by a civil action brought by the Administrator in the appropriate United States district court (as determined under the provisions of title 28 of the United States Code).

[“(D) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court of appeals has entered final judgment in favor of the Administrator, the Attorney General shall recover the amount for which such person is liable in any appropriate district court of the United States. In any such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.”.]

(b) Section 1423(b) of the Safe Drinking Water Act is amended to read as follows:

“(b) Civil actions referred to in paragraphs (1) and (2) of subsection (a) shall be brought in the appropriate United States district court and such court shall have jurisdiction to require compliance with any requirement of an applicable underground injection program or an order issued under subsection (c). The court may enter such judgment as protection of public health may require. Any person who violates any requirement of an applicable underground injection control program (A) shall be subject to a civil penalty of not more than $25,000 for each day of such violation, and (B) if such violation is willful, such person may, in addition to or in lieu of the civil penalty authorized by clause (A), be fined not more than $25,000 for each day of such violation, or imprisoned for not more than three years, or both.”.

(c) Section 1423 of the Safe Drinking Water Act is amended by inserting the following new subsection immediately after subsection (b) and redesignating the succeeding subsection accordingly:

“(c)(1) ADMINISTRATIVE ORDERS FOR OTHER THAN OIL OR NATURAL GAS INJECTION WELL OPERATORS.—In any case in which the Administrator is authorized to bring a civil action under this section with respect to any regulation or other requirement of this part other than those relating to (A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or (B) any underground injection for the secondary or tertiary recovery of oil or natural gas, the Administrator may also issue an order under this subsection either assessing a civil penalty of not more than $25,000 per day for each violation for any past or current violation, up to a maximum administrative penalty of $125,000, or requiring compliance with such regulation or other requirement, or both.

“(2) ADMINISTRATIVE ORDERS FOR OIL OR NATURAL GAS INJECTION WELL OPERATORS.—In any case in which the Administrator is authorized to bring a civil action under this section with respect to any regulation, or other requirement of this part relating to (A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or (B) any underground injection for the secondary or tertiary recovery of oil or natural gas, the Administrator may also issue an order under this subsection either assessing a civil penalty of not more than $5,000 per day for each violation for any past or current violation, up to a maximum administrative penalty of $125,000, or requiring compliance with such regulation or other requirement, or both.

"(3) PROCEDURE.—(A) An order under this subsection shall be issued by the Administrator after opportunity (provided in accordance with this subparagraph) for a hearing. Before issuing the order, the Administrator shall give to the person to whom it is directed written notice of the Administrator's proposal to issue such order and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the order. Such hearing shall not be subject to sections 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

"(B) The Administrator shall provide public notice of, and reasonable opportunity to comment on, any proposed order.

"(C) Any citizen who comments on any proposed order under subparagraph (B) shall be given notice of any hearing held under this subsection and of any order. In any hearing held under subparagraph (A), such citizen shall have a reasonable opportunity to be heard and to present evidence. If no hearing is held prior to issuance of the order, then upon presentation by such citizen, within 30 days of issuance of the order, of evidence that such order was inadequate or improper, the Administrator shall set aside such order immediately and provide a hearing in accordance with subparagraph (A) on the proposed order.

"(D) Any order issued under this subsection shall become effective 30 days following its issuance unless an appeal is taken pursuant to paragraph (6) or the order is set aside pursuant to subparagraph (C). If a hearing request made pursuant to subparagraph (C) is denied, an order issued under this subsection shall become effective thirty days following such denial.

"(4) CONTENT OF ORDER.—(A) Any order issued under this subsection shall state with reasonable specificity the nature of the violation and may specify a reasonable time for compliance.

"(B) In assessing any civil penalty under this subsection, the Administrator shall take into account appropriate factors, including (i) the seriousness of the violation; (ii) the economic benefit (if any) resulting from the violation; (iii) any history of such violations; (iv) any good-faith efforts to comply with the applicable requirements; (v) the economic impact of the penalty on the violator; and (vi) such other matters as justice may require.

"(5) EFFECT OF ORDER.—Any violation with respect to which the Administrator has commenced and is diligently prosecuting an action, or has issued an order, under this subsection shall not be subject to an action under subsection (b) of this section or section 1424(c) or 1449 of this Act: PROVIDED, That the foregoing limitation on civil actions under section 1449 of this Act shall not apply with respect to any violation for which (i) a civil action under section 1449(a)(1) of this Act has been filed prior to commencement of an action under this subsection or, (ii) a notice of violation under section 1449(b)(1) of this Act has been given prior to commencement of an action under this subsection and an action under section 1449(a)(1) of this Act is filed prior to 120 days after such notice is given.

"(6) JUDICIAL REVIEW.—Any person against whom an order is issued or who commented on a proposed order pursuant to paragraph (3) may file an appeal of such order with the United States District Court for the District of Columbia or the district in which the violation is alleged to have occurred. Such an appeal may only be filed within the 30 day period beginning on the date the order is issued. Appellant shall simultaneously send a copy of the appeal by certified mail to the Administrator and to the Attorney General. The Administrator shall promptly file in such court a certified copy of the record on which such order was imposed. The district court shall not set aside or remand such order unless there is not substantial evidence on the record, taken as a whole, to support the finding of a violation or, unless the Administrator's assessment of penalty or requirement for compliance constitutes an abuse of discretion. The district court shall not impose additional civil penalties for the same violation unless the Administrator's assessment of a penalty constitutes an abuse of discretion.

"(7) COLLECTION.—If any person fails to pay an assessment of a civil penalty—

"(A) after the order becomes effective under paragraph (3), or

"(B) after a court, in an action brought under paragraph (6), has entered a final judgment in favor of the Administrator, the Administrator may request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus costs, attorneys' fees, and interest at currently prevailing rates from the date the order is effective or the date of such final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"(8) SUBPOENA.—The Administrator may, in connection with administrative proceedings under this subsection, issue subpoenas compelling the attendance and testimony of witnesses and subpoenas duces tecum, and may request the Attorney General to bring an action to enforce any subpoena under this section. The district courts shall have jurisdiction to enforce such subpoenas and impose sanction.".

(d) Section 1423 of the Safe Drinking Water Act is amended by striking the words "FAILURE OF STATE TO ASSURE" from the title.

[CRITICAL AQUIFER PROTECTION AREA DEMONSTRATION PROGRAM]

SOLE SOURCE AQUIFER DEMONSTRATION PROGRAM

SEC. 12. Part C of the Safe Drinking Water Act is amended by adding the following new section:

["CRITICAL AQUIFER PROTECTION AREA] *SOLE SOURCE AQUIFER* DEMONSTRATION PROGRAM

"SEC. [1428] *1427.* (a) The purpose of this section is to establish procedures for development, implementation, and assessment of demonstration programs designed to protect critical aquifer protection areas located within areas designated as sole or principal source aquifers under section 1424(e) of the Safe Drinking Water Act.

"(b) For purposes of this section, critical aquifer protection area means *all or part of* an area located within an area for which an application for designation as a sole or principal source aquifer pursuant to section 1424(e) has been submitted to or approved by the Administrator as of the date of enactment of this section and which satisfies the criteria established by the Administrator under subsection (d).

"(c)*(1)* Any State, municipal, or local government or political subdivision thereof or any planning entity (including any interstate regional planning entity) that identifies a critical aquifer protection area over which it has authority or jurisdiction may apply to the Administrator for the selection of such area for a demonstration program under subsection (e). Any applicant shall consult with other [appropriate] government or planning entities with authority or jurisdiction in such area prior to application. The application shall include a certification by the Governor that the plan is consistent with State laws, regulations, and policies.

"(2) Applicants, other than the Governor, in any State in which any Federal funds under section 208 of the Clean Water Act have been expended prior to the date of enactment of this section for planning to protect a sole source aquifer designated under section 1424(e) of this Act shall: (A) submit the application for a demonstration program jointly with the Governor and (B) shall obtain the approval of any plan developed or implemented under subsection (g) of this section from the Governor prior to submission to the Administrator.

"(d) Within [12] *16* months of the date of enactment of this section, the Administrator shall, by rule, establish criteria for identifying critical aquifer protection areas under this section. In establishing such criteria, the Administrator shall consider the following:

["(1) the existence of one or more recharge zones through which significant volumes of ground water flow to an underground source of drinking water;]

"(1) the vulnerability of the aquifer to contamination due to hydrogeologic characteristics;

"(2) the number of persons or the proportion of population using the ground water as a drinking water source;

["(3) the availability of alternative supplies of drinking water;

["(4) the vulnerability of the aquifer to contamination due to hydrogeologic characteristics;]

"[(5)] *(3)* the economic, social and [ecological] *environmental* benefits that would result to the area from maintenance of [high quality] *ground* water [recharging the aquifer] *of high quality;* and

"[(6)] *(4)* the economic, social, and [ecological] *environmental* costs that would result from degradation of the quality of [recharging water] *the ground water.*

"(e) An application submitted to the Administrator by any applicant shall propose boundaries for the critical aquifer protection area within their jurisdiction and [may] *shall* include a *plan proposal or a* comprehensive management plan for the proposed protection area. [Such plan shall be designed to maintain the quality of the ground water in the critical protection area through maintenance, to the maximum extent possible, of the natural vegetative and hydrogeological conditions.] *A plan approved prior to the date of enactment under section 208 of the Clean Water Act to protect a sole source aquifer designated under section 1424(e) of this Act shall be considered a comprehensive management plan for the purposes of this section. The objectives of such plan shall be to maintain the quality of the ground water in the critical aquifer protection area in a manner reasonably expected to protect human health, the environment, and the ground water resources.* The following elements [may] *shall* be included in such a protection plan:

"(A) a map showing the detailed boundary of the critical protection area;

["(B) a determination of the quality and quantity of the ground water recharged within the critical protection area;]

"(B) a hydrogeologic assessment of surface and ground water resources within the critical protection area;

"(C) an identification of existing and potential point and nonpoint sources of ground water degradation; [, ground water flow patterns, and the relationship between surface water management and ground water quality and recharge;

["(D) a resource assessment of the amount, location, and type of human development and activity which the ecosystem can sustain while still maintaining existing ground and surface water quality and protecting unique ecological features related to maintenance of water quality;]

"(D) an assessment of the relationship between activities on the land surface and ground water quality;

"(E) specific actions and management practices to be implemented in the critical protection area to prevent adverse impacts on *ground* water quality [and recharge capabilities];

["(F) a program for State and/or local implementation of the plan in a manner that will insure the continued, uniform, consistent protection of the critical protection area in accord with the purposes of this section;]

"(F) identification of authority adequate to implement the plan, estimates of program costs, and sources of State matching funds.

["(G) adequate personnel, funding, and authority to carry out the plan;

["(H) proposed limits on activities and projects financially assisted by Federal, State, or local government which may contribute to degradation of such ground water or any loss of natural surface and subsurface infiltration or purification capability of the critical protection area watershed;

["(I) consideration of specific techniques, which may include clustering, transfer of development rights, and other innovative measures sufficient to achieve the objectives of this section;

["(J) consideration of the establishment of a State institution to facilitate and assist in funding a development transfer credit system.]

"(f) Within 120 days after receipt of an application under this section, the Administrator must approve or disapprove the application based on a determination that the critical protection area satisfies the criteria established under subsection (d) and that a demonstration program for the area would provide [a useful model for other ground water protection programs] *protection for ground water quality consistent with the objectives stated in subsection (e).* Any petitioner may modify and resubmit any application which is not approved. Upon approval of an application, the Administrator may enter into a cooperative agreement with the applicant to establish a demonstration program. Such program shall include the development and implementation of a plan for the protection of the ground water recharged through the critical aquifer protection area.

"(g) Upon entering a cooperative agreement under subsection (e), the Administrator may provide to the applicant, on a matching basis, a grant of 50 per centum of the costs of developing and implementing the plan established under this section. The total amount of grants under this section for any one aquifer, designated under section 1424(e), shall not exceed [$2,000,000] *$4,000,000* in any fiscal year.

"(h) No funds authorized under this subsection may be used to fund activities funded under other sections of this Act or the Clean Water Act, the Solid Waste Disposal Act, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or other Federal statutes.

"(i) No funds authorized to be appropriated under this section may be used to clean up [individual] *any source of contamination or to bring any* [sources] *source* of contamination [or to bring such sources] into compliance with Federal, State, or local statutes.

"(j) No later than December 31, 1989, each State shall submit to the Administrator a report assessing the impact of the program on ground water quality and identifying those measures found to be effective in protecting groundwater resources. No later than September 30, 1990, the Administrator shall submit to Congress a report summarizing the State reports, and assessing the accomplishments of the sole source aquifer demonstration program including an identification of protection methods found to be most effective and recommendations for their application to protect ground water resources from contamination wherever necessary.

["(j)] *"(k)* Nothing under this section shall be construed to amend, supersede or abrogate rights to quantities of water which have been established by interstate water compacts, Supreme Court decrees, or State water laws; or any requirement imposed or right provided under any Federal or State environmental or public health statute.

["(k)] *"(l)* There are authorized to be appropriated for the purposes of this section [$25,000,000] *$20,000,000* for each of the fiscal years [1986] *1987* through [1989.".] *1990.".*

GENERAL PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. (a) Section 1442(f) of the Safe Drinking Water Act is amended by inserting the following at the end thereof: "There are authorized to be appropriated to carry out subsection (a)(2)(B), [$9,600,000 for the fiscal year 1985,] $11,300,000 for the fiscal year 1986, $11,300,000 for the fiscal year 1987, $11,300,000 for the fiscal year 1988, and $11,300,000 for the fiscal year 1989 *and $11,300,000 for the fiscal year 1990.* There are authorized to be appropriated to carry out the provisions of this section (other than subsection (g), subsection (a)(2)(B), and provisions relating to research), [$42,000,000 for the fiscal year 1985,] $47,000,000 for the fiscal year 1986, $47,000,000 for the fiscal year 1987, $47,000,000 for the fiscal year 1988, [and] $47,000,000 for the fiscal year 1989 *and $47,000,000 for the fiscal year 1990.".*

(b) Section 1443(a)(7) of the Safe Drinking Water Act is amended by adding the following at the end thereof: "For the purposes of making grants under paragraph (1) there are authorized to be appropriated [$40,000,000 for the fiscal year 1985,] $45,000,000 for the fiscal year 1986, $45,000,000 for the fiscal year 1987, $45,000,000 for the fiscal year 1988, [and] $45,000,000 for the fiscal year 1989 *and $45,000,000 for the fiscal year 1990.".*

(c) Section 1443(b)(5) of the Safe Drinking Water Act is amended by adding the following at the end thereof: "For the purpose of making grants under paragraph (1) there are authorized to be appropriated [$25,000,000 for the fiscal year 1985,] $28,000,000 for the fiscal year 1986, $28,000,000 for the fiscal year 1987, $28,000,000 for the fiscal year 1988, [and] $28,000,000 for the fiscal year 1989 *and $28,000,000 for the fiscal year 1990.".*

(d) Section 1441(f) of the Safe Drinking Water Act is amended by striking out "in effect" and all that follows and substituting "in effect for more than one year.".

INDIAN TRIBAL ORGANIZATION

SEC. 14. (a) Section 1401 of the Safe Drinking Water Act is amended by inserting the following after subsection 13:

"(14) The term 'Indian tribal organization' means any Indian tribe, band, nation, or other organized group or community (including any Alaska Native village, but not including any Alaska Native regional or village corporation) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(b) The Administrator, in cooperation with the Director of the Indian Health Service, shall, within 12 months of enactment, conduct a survey of drinking water on Indian reservations, identifying drinking water problems and the need, if any, for alternative drinking water supplies.

(c) The Administrator is authorized to make special provision for the treatment of Indian tribes under this Act, including the treatment of Indian tribes as States to the degree necessary to carry out the purposes of this Act. Such special provision may include the direct provision of funds to the governing bodies of Indian tribes, and the determination of priorities by Indian tribes, where not determined by the Administrator in cooperation with the Director of the Indian Health Service. The Administrator is authorized to reduce the non-Federal share otherwise required under section 1443 with respect to Indian tribes, as determined by the Administrator in cooperation with the Director of the Indian Health Service.

JUDICIAL REVIEW

SEC. 15. (a) Section 1448(a) of the Safe Drinking Water Act is amended to read as follows:

"JUDICIAL REVIEW

"SEC. 1448. (a)(1) A petition for review of—

"(A) action of the Administrator in promulgating any national primary drinking water regulation under section 1412, any regulation under section 1413(b), any regulation under section 1414(c), any regulation for State underground injection control programs under section 1421, or any general regulation for the administration of this title may be filed in the United States Court of Appeals for the District of Columbia, or in any United States court of appeals for a circuit in which the petitioner resides or transacts business which is directly affected by such action; and

"(B) action of the Administrator in promulgating any other regulation under this title, issuing any order under this title, or making any determination under this title may be filed only in the United States court of appeals for a circuit in which the petitioners resides or transacts business which is directly affected by such action.

Any such petition shall be filed within the 120-day period beginning on the date of the promulgation of the regulation or issuance of the order with respect to which review is sought or on the date of the determination with respect to which review is sought, or after such date only if the petition is based solely on grounds which arose after such one hundred and twentieth day. Action of the Administrator with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforce-

ment or in any civil action to enjoin enforcement.

"(2)(A) If petitions for review of the same agency action have been filed in two or more United States courts of appeals and the Administrator has received written notice of the filing of the first such petition more than 30 days before receiving written notice of the filing of the second petition, then the record shall be filed in that court in which the first petition was filed. If petitions for review of the same agency action have been filed in two or more United States courts of appeals and the Administrator has received written notice of the filing of one or more petitions within 30 days or less after receiving written notice of the filing of the first petition, then the Administrator shall promptly advise in writing the Administrative Office of the United States Courts that petitions have been filed in two or more United States courts of appeals, and shall identify each court for which he has written notice that such petitions have been filed within 30 days or less of receiving written notice of the filing of the first such petition. Pursuant to a system of random selection devised for this purpose, and within three business days after receiving such notice from the Administrator the Administrative Office thereupon shall select the court in which the record shall be filed from among those identified by the Administrator. Upon notification of such selection, the Administrator shall promptly file the record in such court. For the purpose of review of agency action which has previously been remanded to the Administrator, the record shall be filed in the court of appeals which remanded such action.

"(B) Where petitions have been filed in two or more United States courts of appeals with respect to the same agency action and the record has been filed in one of such courts pursuant to paragraph (1), the other courts in which such petitions have been filed shall promptly transfer such petitions to the United States court of appeals in which the record has been filed. Pending selection of a court pursuant to subsection (1), any court in which a petition has been filed may postpone the effective date of the agency action until 15 days after the Administrative Office has selected the court in which the record shall be filed.

"(C) Any court in which a petition with respect to any agency action has been filed, including any court selected pursuant to subparagraph (A), may transfer such petition to any other United States court of appeals for the convenience of the parties or otherwise in the interest of justice.".

(b) Section 1448(b) of the Safe Drinking Water Act is amended by deleting "45-day" in both places where it appears and inserting "120-days" in lieu thereof.

Mr. DURENBERGER. Mr. President, I move the adoption of the committee amendments.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to en bloc.

Mr. DURENBERGER. Mr. President, today we are considering S. 124, the Safe Drinking Water Act Amendments of 1985.

This bill, which was developed with the able effort and support of our full committee chairman, BOB STAFFORD, the full committee ranking member, LLOYD BENTSEN, the subcommittee ranking member, MAX BAUCUS, and other members of the Environment and Public Works Committee, will help to assure that citizens in this country are provided high quality drinking water supplies.

The Safe Drinking Water Act was enacted in 1974 to provide public health protection from contaminants in drinking water. The detection of synthetic organic chemicals in the water supplies of a number of cities in the early 1970's served as the impetus behind the act's reforms. The act established a program to require compliance with national drinking water standards for contaminants that may have an adverse effect on the health of persons. As an addition to the Public Health Act, the Safe Drinking Water Act focused on the removal of contaminants found in water supplies as a preventive health measure.

The act also established programs intended to protect underground sources of drinking water from contamination. Provisions in the act established restrictions on the underground injection of hazardous and nonhazardous waste and provide authority for the protection of designated sole or principal source aquifers.

An evaluation of the accomplishments of the Safe Drinking Water Act yields both good news and bad news. The good news is that over the past decade there have been a number of improvements. The act has improved compliance with basic drinking water standards. It has increased monitoring of drinking water systems and heightened public awareness of the need to protect drinking water supplies.

However, there have been major deficiencies in the implementation of programs established under the act so that public health objectives have not been fulfilled. Only 22 drinking water standards have been established—a small fraction of the contaminants that are found in public water systems and that may have an adverse effect on human health. Monitoring is only required for those contaminants for which there are standards so that we do not know if our water supplies are contaminated with other potentially harmful substances.

The need for change in current practice and an effective program based on Federal drinking water standards is illustrated by figures from recent reports issued by the Environmental Protection Agency and others: As many as 700 different synthetic organic chemicals, heavy metals, pesticides, and other pollutants have been found in our Nation's drinking water supplies; 28 percent of the water supplies in a random survey of metropolitan systems were found to be contaminated by one or more toxic organic chemicals; 63 percent of the rural water supplies in a random survey were found to be contaminated; and all 50 States have reported cases of underground drinking water contamination. Taken collectively, these statistics speak clearly to the need for an effective program that will assure fundamental public health protection.

The amendments in S. 124 were developed to rectify deficiencies in the statutory requirements and implementation of the act. The bill establishes schedules and deadlines for drinking water standard setting, requires simultaneous promulgation of drinking water goals and standards, and requires that standards be set as close to health level goals as feasible with the use of best available technology. The bill also establishes a monitoring program for unregulated contaminants to provide a systematic check on the quality of each public water system's supply.

The problem of viral and bacterial contamination of drinking water supplies is addressed in the bill by the requirements that EPA issue criteria for filtration of surface water supplies and promulgate regulations requiring disinfection for all public water systems.

Other provisions in the bill require EPA to amend existing public notification requirements to make them more timely and informative and authorize $10 million per year to provide technical assistance to small systems which have had chronic noncompliance problems.

Amendments pertaining to the protection of underground sources of drinking water are intended to enhance existing protection. EPA is required to promulgate ground water monitoring regulations for hazardous waste injection operations and to issue a report on problems with existing class V wells. In addition, a sole source aquifer demonstration program is established for the purpose of providing protection for particularly critical ground water supplies and assessing the effectiveness of specific protection measures.

The bill also provides EPA new enforcement authority for public water systems and ground water protection programs established under the act to assure timely and effective enforcement of existing and new regulatory requirements.

The bill authorizes appropriations of $131,300,000 to be expended to fulfill existing responsibilities and new activities authorized in this bill for fiscal years 1986 through 1990. In addition, a total of $30 million is authorized for monitoring of unregulated contaminants and $20 million per year for fiscal years 1987-90 is authorized for the sole source aquifer demonstration program.

Mr. President, I urge my colleagues to vote for this bill which will help to assure that citizens throughout this

country will have safe drinking water supplies now and in the future.

Mr. BENTSEN. Mr. President, I would like to state my support of S. 124, the Safe Drinking Water Act Amendments of 1985. I would also like to express my appreciation to Senators STAFFORD, DURENBERGER, and BAUCUS for their efforts.

These amendments to the Safe Drinking Water Act are significant modifications that should enhance EPA's ability to improve the quality of our drinking water. While the quality of water has improved over the last decade due to this act and the Clear Water Act, there are many tasks yet undone. Enactment of this legislation will provide EPA with the mandate it apparently needs to accomplish these tasks.

Key among the provisions in S. 124 are the new enforcement provisions for underground injection wells. Previously, the Administrator of the EPA had recourse only through the courts to penalize violators—an inefficient and the time-consuming method for minor violations. S. 124 makes administrative order authority available to the Administrator so the Agency can more effectively enforce its regulations and the law.

Section 11 of the bill, which authorizes this administrative authority, also imposes fines of up to $5,000 per day for oil and gas injection well violators and up to $25,000 per day for hazardous waste well violators. The different penalties that may be assessed under this section are important and realistic: They promote compliance while recognizing that the threat to the environment from these two types of wells is not the same.

I hope my colleagues will join me in support of this legislation.

Mr. STAFFORD. Mr. President, I want to commend the distinguished Senator from Minnesota, the chairman of the Subcommittee on Toxic Substances and Environmental Oversight, for guiding S. 124 through the Environment and Public Works Committee and bringing it to the floor of the Senate.

The Safe Drinking Water Amendments of 1985 contain major improvements to the law that is intended to protect the Nation's drinking water supplies. The bill provides needed impetus to the Environmental Protection Agency to issue regulations for contaminants of drinking water, a needed prod as the Agency has been far too slow in its regulatory efforts.

The bill also takes a major step toward identifying the nature and scope of contamination of drinking water. It does this by greatly expanding the monitoring that is required of public water systems.

Finally, the bill will provide better regulation of underground injection operations that could affect drinking water supplies.

In short the bill is a major improvement of existing law and should be passed by the Senate.

Mr. SIMPSON. Mr. President, I would take this opportunity to heartily congratulate Senator DURENBERGER and his fine staff members, Heather Wicke and Jimmy Powell, for the fine work they have done on the Safe Drinking Water Act reauthorization. This public health measure is of critical importance to the American public. There is a continually and growing awareness in this country that contamination of drinking water supplies has occurred as a result of the inappropriate or erroneous siting of toxic waste dumps, various nonpoint pollution seepage and other contamination.

Many of the municipal water systems currently in service are using technology that is over 100 years old. Progress is needed in increasing the effectiveness of the methods that are used to remove pollutants from our drinking water supplies and the Safe Drinking Water Act reauthorization is a fine forward step in providing cleaner drinking water to all Americans.

Senator DURENBERGER is a fine friend and a pragmatic and considerate Senator. He is sensitively aware of the ground water contamination problems that we find in various regions of this country. I think all of us on the Environment and Public Works Committee recognize that ground water contamination is a growing problem that Congress must deal with. However, I believe it is prudent and reasonable to leave a full and comprehensive approach to ground water regulation for another day. The new requirements that will result from passage of this bill are very significant and will contribute significantly to protection of the environment and public health. I firmly believe that this bill is generally sound and that there is genuine flexibility for the proper administration of this act by the EPA Administrator.

This legislation also contains a judicial review provision which I authored and which I believe will facilitate the equitable and reasonable determination of venue. I remain concerned that the standard setting language may not have the desirable amount of flexibility for the EPA and I would anticipate that the Members of the House will consider the implications of any overly restrictive regulatory language in this regard.

I do look forward to seeing this bill signed into law during this session of Congress and I trust that most of my colleagues will lend their support to this important piece of public health legislation.

Mr. BENTSEN. I would like to raise a concern that has come to my attention only recently. It appears that the Environmental Protection Agency is not consistent in applying permit requirements for fluids brought to the surface in connection with oil or natural gas production. Several EPA regions with a majority of oil and gas production facilities treat these fluids as part of the class II injection well program. However, some exceptions to this policy have recently occurred, which has created some confusion with respect to certain fluids.

For example, in Colorado, the EPA region will not permit the injection of water produced along with carbon dioxide at the McElmo Dome Field into a class II disposal well. EPA has assigned a class I nonhazardous permit to such wells.

In California, region IX requires a class V permit for wells which inject produced water commingled with field scrubber waste waters. Texas, Louisiana, Kansas, Oklahoma, and other States, however, approve class II injection for multiple waste waters associated with oil and gas operations.

Mr. SIMPSON. I commend the Senator from Texas for raising this issue for I had intended to do so. In my judgment, it is appropriate that all the material described by my friend from Texas be handled with his State's class II program. However, at a minimum, the EPA should review its regulations in order to assure consistent application of permit requirements.

Mr. DURENBERGER. As I am not familiar with the specific technical issues involved in this case, I am not able to judge what action, if any, the Agency should take. However, I agree that EPA should strive to achieve consistency in the application of its regulations to injection well activities.

Mr. EVANS. Mr. President, I rise in support of this important piece of legislation. I commend my colleague, Mr. DURENBURGER, for a job well done. He has pursued legislation to protect our water resources for a number of years. Last year he produced a set of Safe Drinking Water Act amendments in the waning days of the 98th Congress. Unfortunately, the crush of pending legislation and time stole our opportunity to consider that bill. Through his continued efforts, we are able to consider that bill. Through his continued efforts, we are able to consider Safe Drinking Water Act amendments early in this Congress. I applaud his perseverance.

This is an important and timely bill. Its provisions strengthen the existing drinking water statute; additional protection cannot wait any longer. I am particularly pleased that this bill contains a new program to encourage the protection of sole source aquifers, the Sole Source Aquifer Demonstration Program. This program reflects our recognition of the delicate, often precarious, balance between the health of

an aquifer and the use of the lands surrounding it. Some communities have already acknowledged this relationship and have taken measures to protect their aquifers. I believe such communities deserve special consideration. At my urging, last year's bill contained language requiring that a community's previous efforts to protect its sole source aquifer be recognized. Similar recognition is provided for in this bill, and I thank my colleague for his response to my requests.

Water is our most precious resource. Life cannot exist without clean, safe drinking water. Ground water, and aquifers in particular, are marvels of the natural world. We must protect these treasures from pollution. By acting now to prevent further contamination of our ground water, we can avoid tragic problems in the future.

This bill is another step toward that goal. Yet there is much left to be done before our ground water resources are fully protected. I urge my colleagues to support this bill to protect our most vital resource—water.

Mr. MOYNIHAN. Mr. President, I would like to express my support for S. 124, the Safe Drinking Water Act Amendments of 1985. I commend Senator DURENBERGER for working so diligently to develop the legislation and steer it through committee consideration so early in this Congress. S. 124 would protect the Nation's drinking water supplies by establishing a more aggressive, systematic process for setting new maximum contaminant levels.

This bill would hasten the neglected effort to establish standards for harmful chemicals that contaminate drinking water supplies. The Environmental Protection Agency would be required to promulgate standards for a specific set of chemicals, and the bill provides strict deadlines. Equally important, the Agency would periodically review the need for regulating additional substances that could threaten the health of drinking water consumers. Maximum contaminant levels would be set as close as feasible to a goal at which no adverse health effects occur.

S. 124 has one major omission: it lacks a comprehensive program to address the serious problem of ground water contamination. I am, however, very pleased that the bill includes a sole source aquifer demonstration program. I first introduced the Sole Source Aquifer Protection Act in 1982 and reintroduced it on January 3, 1985. Although not as generous or far-reaching as my bill, the demonstration program in S. 124 would be the first significant federally assisted effort to prevent the degradation of our most critical underground water supplies.

The Environmental Protection Agency has to date designated 20 sole source aquifers, underground reserves that are the only source of drinking water for a region. One of these lies under Long Island. On Long Island, nearly 3 million people drink from one well. And this well is rapidly becoming polluted by toxic chemicals. In Nassau County alone 119 of the 389 public wells have detectable levels of synthetic organic chemicals. Throughout both Long Island counties, Nassau and Suffolk, chemicals from diverse sources have ended up in the water supply: Solvents from industries and residents' homes, pesticides from potato farms, nitrate from lawn fertilizers, and numerous chemicals from landfills.

The only way to prevent the problem from getting worse, on Long Island and elsewhere, is to plan. We now realize how much our activities on the land above an aquifer affect the quality of the ground water and its viability as a supply for future generations. As precipitation infiltrates the land surface and recharges the ground water, it carries with it substances that have leaked into the soil or been placed on the land. In many cases, water passing through a relatively small, well-defined land area recharges a large ground water reservoir. On Long Island, the prime recharge zone happens to be an area known as the Suffolk Pine Barrens, an area of 110,000 acres or 13 percent of the island. Careful protection of these recharge zones is one of the cheapest and most effective means of maintaining good ground water quality.

Under the voluntary demonstration program, local and State governments could cooperate with the EPA in the development and implementation of plans to protect sole source aquifers. The EPA would provide half the necessary funds, and $80 million is authorized for the purpose. The plans could include a variety of measures to control human activity in special protection areas and thereby prevent contamination of the sole source aquifer. Critical parcels of land could be acquired, while in other areas suitable zoning ordinances and regulations on siting and design of landfills, underground storage tanks, and other potential sources of pollution could be established. S. 124 requires the Governor's approval of the plan in States where federally funded "208 plans"—referring to section 208 of the Clean Water Act—have previously been prepared. This ensures consistency with earlier planning efforts, although I believe the Governor's approval should be required in all States.

The sole source aquifer designation provided by the Safe Drinking Water Act of 1974 was intended to control development activities of the Federal Government in regions entirely dependent on ground water for drinking supplies. However, experience has shown that the designation—lacking a broader planning and management context—is ineffective in controlling many activities which may adversely affect the quality of ground water. I am confident that section 12 of S. 124 will accomplish its purpose—to demonstrate the effectiveness of a preventive approach to protecting sole source aquifers. All my colleagues should support S. 124.

Mr. BAUCUS. Mr. President, I would like to express my support for S. 124, the Safe Drinking Water Act Amendments of 1985.

I would also like to thank my colleague, Senator DURENBERGER, the chairman of the Subcommittee on Toxic Substances and Environmental Oversight, for his efforts on this measure.

The bill effectively addresses some of the most serious problems plaguing EPA's drinking water office. EPA has failed to develop a vigorous program, so that a wide variety of contaminants are still regularly found in our drinking water and even regulated contaminants are permitted to remain in our water at levels that present a significant risk to public health.

This bill addresses these serious shortcomings in several ways. First, it requires EPA to set standards within 3 years for the 85 contaminants previously listed by EPA as contaminants of concern. Many of us are uncomfortable with denying an agency discretion in this manner, but the failure of the EPA to meet its responsibilities under the Safe Drinking Water Act leaves us no alternative. The provisions in section 2 of this bill are the only means we have of assuring that EPA will set standards for these contaminants found in our drinking water that present a risk to the public health.

The second major problem S. 124 addresses is the lack of information about what substances are found in our drinking water. The Safe Drinking Water Act, as enacted, required EPA to conduct a series of studies to find out more about the quality of our drinking water and our ability to remove contaminants. Unfortunately, practically none of these studies have been completed so we find we have very little reliable, national information about our drinking water. S. 124 requires EPA to publish a list of unregulated contaminants for which public water systems will be required to monitor. This will be the first nationwide effort to determine what contaminants are found in which systems and in what quantity.

A third significant aspect of this bill are amendments to the enforcement provisions in the act. S. 124 provides EPA with authority to issue administrative orders and increases penalties. These provisions provide EPA with the means to take action against violators of drinking water standards more swiftly and more effectively. To date,

EPA's enforcement of these standards can be most generously categorized as lax. S. 124 should prevent EPA from continuing its poor enforcement practices.

There is one last provision of particular interest to States like Montana that contain many small public water systems. Section 8 of S. 124 provides $10 million per fiscal year in technical assistance to these systems so their ability to comply with national drinking water standards is not impaired simply because of their size.

Mr. President, I support the Safe Drinking Water Act Amendments of 1985 because I believe enactment of this bill will improve the quality of our drinking water. I encourage my colleagues to lend their support to this measure as well.

Mr. MITCHELL. Mr. President, I strongly support the reauthorization of the Safe Drinking Water Act. The amendments before us today make two particularly important improvements to the act.

The most significant amendment to the act is the addition of specific deadlines for development of drinking water standards for 85 identified contaminants. The Agency will publish these much-needed standards over the next 36 months. The amendments to this portion of the act also provide for streamlining of the standard-setting process.

While these improvements to the standard-setting process are badly needed, I am pleased that members of the Environment and Public Works Committee have agreed to focus future attention on the degree of health protection provided by the current standards and those under development. It has been suggested that we consider adding to the existing standard-setting process a safety net to assure a minimum level of public health protection. I believe this proposal has merit and look forward to considering it more fully.

The second major amendment to the act is the provision for a sole source or critical aquifer protection demonstration program. This program is designed to identify workable approaches to the protection of ground water resources where these resources are a critical or sole source of drinking water supply. This demonstration program will provide valuable insights into effective methods of protecting ground water resources.

It is important to note, however, that the Safe Drinking Water Act is not designed to provide for the comprehensive protection of the ground water resource. We see increasing evidence that ground water quality is threatened from a wide range of pollution sources. Congress has provided for controls over some of the most obvious threats to ground water, such as leaking underground storage tanks, which have been identified as a serious problem in the State of Maine. But we have not yet begun the job of working with State and local governments to design a more comprehensive approach to protecting ground water resources. I am hopeful that hearings scheduled soon in the Subcommittee on Toxic Substances will be a step in that direction.

(At the request of Mr. DURENBERGER the following colloquy was ordered to be printed in the RECORD.)

● Mr. WILSON. I would ask my distinguished friend from Minnesota, the chairman of the Environment and Public Works Subcommittee on Toxic Substances and Environmental Oversight, to respond to several questions concerning the intent of the standard-setting amendments to the act. I realize that there has been a good deal of discussion on the issue of granular activited carbon as the basis for determining the best technology available for purposes of establishing the maximum contaminant level, and I don't want to repeat the full debate that has been covered so well in the Committee on Environment and Public Works. In fact I have read the report language and some if not all, of my particular concerns seem to be taken care of in that carefully constructed language. However, I would like to ask the chairman to restate for the record how cost will, in practice, be considered in the process of determining the maximum contaminant level.

It is my understanding from reading the statute and the report language that the Environmental Protection Agency Administrator would regard granular activated carbon as available technology, but in setting the maximum contaminant level, he would take into consideration cost and feasibility at different levels of treatment by granular activited carbon technology in arriving at the final maximum contaminant level. Once that level has been set a water agency could use another technology which is at least as effective at meeting the maximum contaminant level.

Can the chairman assure me that cost will be taken into account in establishing drinking water standards?

● Mr. DURENBERGER. That is correct.

● Mr. WILSON. The Senator's response is most welcome, and I feel that this process will not lead to unreasonable costs to local water agencies that will have to comply with this new legislation. My particular concern is with trihalomethane removal where a comparable or higher level may be achieved more cost effectively by using an alternative technology. Can the chairman tell me if these alternative technologies can be used by the Administrator as the basis for setting the drinking water standards?

● Mr. DURENBERGER. That is correct.

● Mr. WILSON. I thank the chairman for his cooperation.●

Mr. LAUTENBERG. Mr. President, I rise in strong support of the drinking water bill before us. The American public is demanding safe drinking water. They also want precious underground sources of drinking water protected. The bill before us will go far in meeting these goals, and I applaud the chairman of the Environment and Public Works Committee for the speed with which the committee took up this bill.

It will result in important improvements in EPA's current drinking water program. It puts EPA on a strict schedule for regulating 85 contaminants. It puts EPA on a schedule for developing an additional list of substances and regulating those. And of critical importance is the requirement that every major water supply system conduct a baseline inventory of unregulated contaminants in drinking water and then remonitor at least every 5 years.

Mr. President, I am particularly interested in the public notification provisions of the bill. It is widely recognized that the current notification requirements have failed. The bill revises these requirements by distinguishing between violations that pose a serious threat to public health—such as exceedences of maximum contaminant levels—and less serious violations. I thank the chairman of the subcommittee, Senator DURENBERGER, again for his willingness to accept my amendment requiring notification of serious violations within no longer than 14 days.

Mr. President, another issue of great interest to me is the provision establishing—for the first time—a program for protecting underground sources of drinking water. This provision sets up a demonstration program for land use planning in the area affecting aquifers. It provides for $20 million per year in matching grants for implementing management plans.

Aquifer protection is critically important in New Jersey. Over 60 percent of the drinking water in the State comes from groundwater supplies. The state of emergency due to drought conditions and reliance on our groundwater to pull us through the drought brings the point home. Unfortunately, the spreading contamination of this resource is sobering. Hundreds of wells in New Jersey have been restricted or closed because of chemical contamination.

The aquifer protection program we are approving today is an important step in recognizing the importance of preventing contamination. It is much harder, if not impossible, to clean up an aquifer after it becomes contami-

nated. I am hopeful that applications for the protection of our three federally designated sole source aquifers, the Buried Valley Aquifer, the Brunswick Shale and Sandstone Acquifer, and the Unconsolidated Quartenary acquifer of the Rockway River, will be submitted for the demonstration funds to make full use of this program.

The Committee on Environment and Public Works plans to hold hearings in the next month on a national groundwater protection strategy, and I look forward to working with members of the committee in fashioning legislation that is larger in scope than the proposal that we are approving today.

Mr. President, Senator BRADLEY and I planned to offer an amendment today to ban the use of lead and lead solder in drinking water pipes. This amendment would have been prospective. It was aimed at reducing the exposure of the public to lead in drinking water. Studies in New Jersey have indicated that this form of exposure ranks even higher than exposure to lead from automobile exhaust. The committee will hold a hearing on lead in drinking water before superfund is taken up on the floor. It is my understanding that the amendment will be considered when the Senate takes up superfund on the floor.

Mr. President, it is my hope that the House will soon pass their counterpart and that we will have the opportunity to send a strong safe drinking water act to the President's desk well before the summer recess.

Mr. President, I'd like to commend the chairman of the committee, Senator STAFFORD, and chairman of the subcommittee, Senator DURENBERGER. In addition, I'd like to commend the leadership for bringing this bill promptly to the floor. It is my hope that we can get the Clean Water Act and the superfund to the floor as rapidly.

Mr. President, 10 prominent environmental and health organizations and the water and wastewater equipment manufacturers associations sent a letter to the Senate today urging passage of this bill. Their support has been critical in passing a strong bill, and I ask unanimous consent that the complete text of their letter be printed in the RECORD.

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

SAFE DRINKING WATER AMENDMENTS—FLOOR VOTE TODAY

MAY 16, 1985.

DEAR SENATOR: The Safe Drinking Water Act is one of our most critical environmental and public health laws. Unfortunately, this Act has not functioned as intended in protecting the American public from toxic chemicals in drinking water.

Many sorely needed reforms to this law have been included in S. 124, the Safe Drinking Water Amendments of 1985. This legislation, sponsored by Senator David Durenberger and unanimously reported out of the Senate Environment and Public Works Committee, is scheduled for floor action this week. On behalf of a broad coalition of environmental, industry, public interest and public health organizations, we urge you to support this bill.

When over 700 contaminants were found in the drinking water supplies of New Orleans and these supplies were linked with high rates of cancer, Congress passed the original Safe Drinking Water Act. The 1974 law was intended to protect the public health by giving EPA the authority to set and enforce limits on toxic chemicals in drinking water.

Over the past decade, however, EPA has used this authority most reluctantly, setting standards for only 22 drinking water contaminants. This lack of standards means not only that treatment technologies are not applied but also that monitoring to determine the presence of chemicals such as dioxin, benzene, EDB, PCBs and trichloroethylene is sporadic or nonexistent in most states. In addition, the enforcement of these few standards has been lacking; for example, the General Accounting Office reported in 1982 that enforcement action "ranged from none to minimal, followed no particular pattern, and was not as timely as it could or should have been."

S. 124 addresses many of the failings of the existing drinking water program. The bill requires EPA to set standards for over 60 chemicals which threaten drinking water supplies across the country. It requires the Office of Drinking Water to consult with other appropriate offices within EPA and with the National Toxicological Program in order to set priorities for future standard-setting. It mandates the establishment of a much-needed program to monitor for unregulated but potentially harmful contaminants, and it enhances enforcement capabilities with new authorities for the use of administrative orders by EPA. Senator Durenberger's legislation assures that notification of violations of standards will be timely and widespread; at the same time, it allows for revisions of what some had considered a burdensome public notification system. S. 124 also provides a mechanism for federal, state and local cooperation to protect critically needed and highly vulnerable underground sources of drinking water.

The American public has waited too long for the basic protections embodied in S. 124. We urge you to support this important legislation.

Sincerely,

Velma, Smith, Environmental Policy Institute; Julia A. Holmes, League of Women Voters; Rich Miller, American Nurses Association; Dan Becker, Environmental Action; Reid Wilson, U.S. Public Interest Research Group; Dr. William H. McBeath, American Public Health Association; Fern Summer, Water and Wastewater Equipment Manufacturers Association; L. Geoffrey Webb, Friends of the Earth; Jacqueline M. Warren, National Resources Defense Council; Larry Williams, Sierra Club; Nancy Drabble, Public Citizen's Congress Watch.

Mr. DURENBERGER. Mr. President, I move the passage of the bill, as amended.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (S. 124), as amended, was passed.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. DURENBERGER. Mr. President, I thank my colleague, the majority leader, and I thank the Democratic leader a great deal for the special courtesy and convenience that has been provided for all of us today in the waiver of the 3-day rule and many other considerations.

Mr. BYRD. Mr. President, I appreciate the kind remarks of the distinguished Senator.

HOUSE BUDGET PLAN

Mr. DOLE. Mr. President, I am not surprised but disappointed with the action by the House Budget Committee. I think the Democratic majority, which is rather large in that committee, has simply walked away from fiscal responsibility today. The partisan House budget package is a feeble attempt at best, and the smoke and mirrors demonstrate that the House Democrats still reflect the big government, antidefense views of its liberal Members. Under the House budget plan, not one Federal program is terminated. The spending path continues to go up—not down. The spending plan is about $40 billion short, and probably closer to $80 billion or $100 billion short if you take out some of the smoke and mirrors, and assumptions, than the plan passed by the Senate. Almost $9 billion in "savings" comes from technical adjustments and other sleights of hand.

The liberal Democrats have again made defense the "whipping boy." I think you will recall that the Senate action cut substantially the amount from the administration's defense requests over the next 3 years, but the House Democratic plan would lop off an additional $22 billion. If spending reductions of that magnitude were put into effect, it would certainly mean slashing programs that affect our national security here and abroad.

The House Democratic budget blueprint does not spread the burden fairly across the board. It exempts all retirement benefit programs from even a freeze in inflation adjustments. This is politics—pure and simple—designed for special interests, not deficit reduction.

Perhaps worst of all, a significant portion of the House proposed budget

savings comes from the assumption that growth in nondefense discretionary programs can be limited to one-half of the rate of inflation. but those savings are unrealistic since there is no way of knowing what the Congress will do in 1987 and 1988.

Mr. President, as we have learned in the Senate, there are no easy ways to cut the deficit and at the same time guarantee that the Federal Government fulfills its most fundamental responsibility—the responsibility to maintain a strong national defense. Sooner or later the Democratic-controlled House is going to have to face up to those hard realities.

Mr. President, I am still hopeful that maybe in the conference, and hopefully on the House floor, that there can be a coalition put together of reasonable Members of the House in both parties who will really make an effort to reduce Federal spending. Again, I repeat—not a single Federal program terminated, all their savings comes from defense and other smoke and mirrors adjustments, assumptions, and I guess when someone finally determines how much the savings is over a 3-year period it is going to fall far short of the budget passed by the Senate here on last Friday morning.

So I am disappointed—not surprised—that with the stacked committee of the margin of several Members, I assume, every Republican amendment was defeated. It is unfortunate because we have heard so much rhetoric from those who have the responsibility on the House side to deal with this issue. I just say as I have said before, this in the final analysis must be bipartisan. But even beyond that, it must be realistic. There is not much realism in the budget approved by the Democratic majority on the House Budget Committee.

That is unfortunate and it must be disappointing to the American people and others who really felt that this time the Congress would actually do something. But in one short week the House has demonstrated that they are not prepared to do anything but make speeches—talk about the deficit, tell you how bad it is, how we ought to do something, and then proceed to do as little as possible.

So as bad as it is, there is still some hope, hope that the American people and others will be able to encourage a bipartisan effort on the House floor next week to put something together that will mean real spending restraint, real spending reduction and not because we all enjoy that so much but because the situation demands it, and whether we are Democrats or Republicans is not really important.

ORDERS FOR FRIDAY, MAY 17, 1985

ORDER FOR RECESS UNTIL 11:30 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11:30 a.m. on Friday, May 17.

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

ORDER FOR RECOGNITION OF SENATOR PROXMIRE

Mr. DOLE. Mr. President, following the recognition of the two leaders under the standing order, I ask unanimous consent that 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. Mr. President, following the Proxmire 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 12 noon, with statements therein limited to 5 minutes each.

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

Mr. DOLE. Mr. President, following routine morning business, the Senate will turn to the consideration of the DOD authorization bill.

PROGRAM

Mr. DOLE. I am advised by the distinguished chairman of the Armed Services Committee that he cannot agree or does not want me to agree that there be no votes until Tuesday morning. There may be a way to prevent votes from happening after 5 p.m. on Monday, but I am advised by the chairman that he has already instructed two Members on this side to cancel events on Monday evening, one in Detroit and one in New York. On that basis, I am not able to assure the distinguished Senator from California, Senator CRANSTON, that anybody can be protected beyond 5 p.m. on Monday. It is my understanding those visiting NATO will return no later than 4 p.m. on Monday, and those attending the Canadian conference will return by 10 or 11 a.m. on Monday. So I only say to my colleagues that I know it may be an inconvenience, but this is a very important piece of legislation. There is a real hope that we can finish it next week. Some say it is impossible. Maybe it will be impossible. But I do not know of any other way except to try.

So I regret that I cannot be the bearer of good news to the distinguished Senator from California, Senator CRANSTON.

RECESS UNTIL 11:30 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 11:30 a.m., Friday, May 17, 1985.

The motion was agreed to; and, at 6:06 p.m., the Senate recessed until tomorrow, Friday, May 17, 1985, at 11:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 16, 1985:

EXPORT-IMPORT BANK OF THE UNITED STATES

Richard H. 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.

DEPARTMENT OF STATE

Vernon A. Walters, of Florida, to be the representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the representative of the United States of America in the Security Council of the United Nations.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Pauline Crowe Naftzger, of California, to be a member of the National Museum Services Board for a term expiring December 6, 1988.

George S. Rosborough, Jr., of Missouri, to be a member of the National Museum Services Board for a term expiring December 6, 1988.

NATIONAL SCIENCE FOUNDATION

John H. Moore, of California, to be Deputy Director of the National Science Foundation.

NATIONAL COUNCIL ON THE HANDICAPPED

The following-named persons to be members of the National Council on the Handicapped for the terms indicated:

For a term expiring September 17, 1986:

Jeremiah Milbank, of Connecticut, vice Carmine R. Lavieri, deceased.

For a term expiring September 17, 1987:

Justin W. Dart, Jr., of Texas, reappointment.

Roxanne S. Vierra, of Colorado, to be a member of the National Council on the Handicapped for a term expiring September 17, 1987.

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.

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 1370:

To be lieutenant general

Lt. Gen. Alexander M. Weyand, xxx-xx-... [redacted], age 56, 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. Charles W. Dyke, [redacted] U.S. Army.

IN THE 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. James A. Sagerholm, [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

Rear Adm. Kendall E. Moranville, [redacted]/1310, U.S. Navy.

EXTENSIONS OF REMARKS

FIFRA AMENDMENTS OF 1985

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. BEDELL. Mr. Speaker, on Tuesday I was joined by my colleague, Mr. ROBERTS, in introducing the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA] Amendments of 1985. As the name implies, this legislation proposes to make certain changes with respect to the basic law which governs the manufacture and use of pesticides in this country.

The proposed amendments, we believe, reflect many of the comments made by Dr. John A. Moore, Assistant Administrator for Pesticides and Toxic Substances, Environmental Protecton Agency, during hearings held by the Subcommittee on Department Operations, Research, and Foreign Agriculture, on April 18 of this year.

The subcommittee scheduled its hearings on that day in anticipation that Environmental Protection Agency [EPA] officials at that time would make good on their previous assurances to the Congress that the Agency would submit specific legislative proposals to improve the implementation of FIFRA. However, we were greatly disappointed to learn that, despite the apparent best efforts of EPA officials to draft a FIFRA reform measure, others within the administration refused to allow the Agency to submit that proposal to the Congress.

Although he appeared before the subcommittee without a specific legislative proposal in hand, EPA's Dr. Moore provided a helpful review of the Agency's progress to date in carrying out its authority under FIFRA. In addition, while he attested to the fundamental soundness of FIFRA, he was able to point to a number of areas where certain changes in the act could improve EPA's authority to assure the safe use of pesticides.

Mr. Speaker, the measure we introduced is intended to serve two purposes. First, it is offered as a reflection of the improvements in FIFRA recommended by Dr. Moore. In that respect, we hold out hope that administration officials eventually will be able to lend their support to efforts seeking progress on FIFRA this year.

Second, we view the amendments as a useful basis for beginning debate on the necessary process of reforming FIFRA. Next week, the subcommittee on Department Operations, Research, and Foreign Agriculture will hold 2 days of public hearings on legislation to amend FIFRA. As we proceed with these hearings, the measure we are introducing today is intended to provide a focus for suggested changes. However, we fully expect—and we are open to—additional proposals for changes in pending legislation or current law.

At this point, Mr. Speaker, only one thing is clear. We must act on comprehensive FIFRA reform legislation this year. As we know, this issue has been plagued by controversy and the lack of real progress for several years now, despite sincere efforts and considerable hard work by many on both sides. However, we are hopeful that the early indications we detect of a willingness by all sides to cooperate and compromise will result in progress this year. We pledge our intention to see that every opportunity is provided for action and resolution of this issue in the coming weeks.

The text of the bill, and a summary analysis, follows:

H.R. 2482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1985".

REFERENCES TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

DEFINITIONS

SEC. 3. (a) Section 2(e) (7 U.S.C. 136(e)) is amended—

(1) in paragraph (1) by deleting the second sentence thereof.

(2) by deleting paragraph (4).

(b) Section 2(l) (7 U.S.C. 136(l)) is amended by deleting the words "cancellation proceeding" and substituting therefore the words "a cancellation proceeding under section 6 (b) and (d) or a rulemaking proceeding under section 6(a).".

(c) Section 2(n) (7 U.S.C. 136(n)) is amended to read as follows:

"(n) INGREDIENT STATEMENT.—The term 'ingredient statement' means a statement which contains—

"(1) the name and percentage of each active ingredient in the pesticide product;

"(2) the name (and, to the extent found necessary, the percentage) of each inert ingredient which the Administrator determines must appear in the ingredient statement because of the hazard which the Administrator has determined may be posed by the presence of that ingredient;

"(3) the total percentage of all inert ingredients in the pesticide product;

"(4) if the product contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, calculated as elementary arsenic; and

"(5) any other information concerning the chemical composition or identity of any active ingredient of the product (for example, information on chemical equivalency) which the Administrator requires to appear on the ingredient statement in order that the nature of the active ingredient is accurately represented.".

(d) Section 2(u) (7 U.S.C. 136(u)) is amended by inserting after the words "or desiccant;" the words "or (3) any substance or mixture of substances which contains an active ingredient and which any person distributes or sells in any State for use in manufacturing or formulating a pesticide or for repackaging as a pesticide;".

(e) Section 2(ee) (7 U.S.C. 136(ee)) is amended—

(1) by inserting at the end of clause (1) thereof the words "unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency;"; and

(2) by deleting the word "or" in clause (3) thereof and substituting therefor the words "unless the labeling specifically states that the product may be applied only by the methods specified on the labeling; or".

(f) Section 2 is further amended by adding at the end thereof the following new subsections:

"(ff) TO DISTRIBUTE OR SELL.—The term 'to distribute or sell' (and grammatical variations thereof) means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver: *Provided,* That the term does not include the holding or application of registered pesticide products or use dilutions thereof by any applicator who provides a service of controlling pests without delivering any unapplied pesticide to any person so served.

"(gg) PESTICIDE PRODUCT.—The term 'pesticide product' means a pesticide in the particular form (including composition, labeling, and packaging) in which it is (or is proposed to be) distributed or sold. The term 'pesticide' as used in this Act shall mean 'pesticide product' when the context so indicates.

"(hh) PESTICIDE TESTING FACILITY.—The term 'pesticide testing facility' means any person that conducts any test, study, survey, or investigation of the properties, effects, or behavior of any pesticide (or any ingredient, metabolite, or degradation product thereof) for or on behalf of any registrant, applicant for registration, or other person who sells or distributes the pesticide (or contemplates selling or distributing it): *Provided,* That the term does not include any person solely on account of such person's participation as a cooperator in field testing of a pesticide in compliance with an experimental use permit under section 5 of this Act.

"(ii) TERMS OF REGISTRATION.—The term 'terms of registration' means the requirements imposed on a pesticide product under

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

this Act concerning the product's composition labeling, and packaging, and the restrictions on its distribution, sale, and use.".

REGISTRATION OF PESTICIDES

SEC. 4. (a) Section 3(a) (7 U.S.C. 136a(a)) is amended to read as follows:

"(a) REQUIREMENT OF REGISTRATION.—Except as provided by this Act, no person in any State may distribute or sell to any person any pesticide which is not registered under this Act.".

(b) Section 3(c) (7 U.S.C. 136a(c)) is amended—

(1) in section 3(c)(1)(D)(ii) by striking out all of the fourth sentence after "findings and determination of the arbitrator" and all of the fifth sentence, and in section 3(c)(2)(B)(iii) by striking out all of the second sentence after "findings and determinations of the arbitrator" and all of the third sentence, and by substituting in each case therefor the words "shall be reviewable only in the United States court of appeals for the circuit in which the petitioner resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, upon a petition for review filed with the court by a party to the arbitration within 60 days after the entry of the arbitrator's determination or within 60 days after enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1985 whichever date is later. For purposes of section 2112 of title 28, United States Code, the arbitrator's determination shall be treated as if it were an order of an administrative agency. The parties to the arbitration shall share equally in the fee and expenses of the arbitrator, including any expenses of the arbitrator associated with judicial review."; and

(2) in section 3(c)(3) and 3(c)(6) by adding the words "or (7)" after the words "paragraph (5)".

(c) Section 3(d) is amended—

(1) in section 3(d)(1)(A) by deleting the words "on the initial classification";

(2) in section 3(d)(1)(C)(i) by deleting the words "by or under the direct supervision of a certified applicator." and substituting therefor the words "by a certified applicator or under such degree of supervision of a certified applicator as the Administrator may specify.";

(3) in section 3(d)(1)(C)(ii)—

(A) by deleting the words "by or under the direct supervision of a certified applicator" and substituting therefor the words "by a certified applicator or under such degree of supervision by a certified applicator as the Administrator may specify";

(B) by deleting the last sentence thereof and substituting therefor the words "Any such regulation shall be issued under section 6(a) of this Act.";

(4) in section 3(d)(2) by deleting the words "he shall notify the registrant" and all that follows and substituting therefor the words "or that additional restrictions are required to prevent such effects, the Administrator may act to provide such restrictions under section 6(a) or 6(b)(1)(B) of this Act."; and

(5) in section 3(d)(3) by deleting the last sentence thereof and substituting therefor the words "A petition under this paragraph shall be treated as an application to amend the registration and to modify or rescind any regulation involved.".

ADMINISTRATIVE REVIEW; SUSPENSION

SEC. 5. (a) Section 6(a) (7 U.S.C. 136d(a)) is amended to read as follows:

"(a) RULEMAKING PROCEEDINGS TO DETERMINE WHETHER PRODUCTS CAUSE UNREASONABLE ADVERSE EFFECTS ON THE ENVIRONMENT.—

"(1) The Administrator may by regulation determine—

"(A) that a use (or proposed use) of a pesticide product (or category of products) causes or will cause unreasonable adverse effects on the environment; and

"(B) the terms of registration, if any, under which the pesticide product (or category of products) may be distributed, sold, or used.

"(2) As part of a rulemaking proceeding under this subsection, the Administrator may by order require that one or more issues shall be determined solely on the basis of substantial evidence of record presented in a hearing conducted in the manner prescribed by subsection (d) of this section.

"(3) Any regulation issued under this subsection (and any refusal of a petition to modify or rescind such a regulation) shall be reviewable only as provided by section 16(e) of this Act.

"(4) The Administrator may not issue a notice of intent to cancel the registration of a product (or to cancel it unless the terms of registration are modified) for one or more uses under subsection (b)(1) of this section unless—

"(A) the Administrator has published a final rule under this subsection which concludes that one or more uses of the product poses unreasonable adverse effects on the environment; or

"(B) the Administrator determines that the question of whether one or more uses of the product poses unreasonable adverse effects on the environment can be answered more quickly and efficiently in an adjudicatory hearing under subsection (d) of this section than in a rulemaking proceeding, taking into account the cost to the Government and to other parties and the time required for resolution of issues; or

"(C) the notice is issued on or before October 2, 1988, and concerns a product (or category of products) which was the subject of an administrative investigation or proceeding or investigation commenced on or before October 2, 1986.

"(5) If a hearing results from a notice under subsection (b)(1) or (b)(2) of this section or section 3(c)(6) based on a pesticide's failure to comply with a regulation issued after October 2, 1985, under this Act, the scope of the hearing shall be limited to—

"(A) whether the product complies with the regulation;

"(B) whether the regulation by its terms is applicable to such a product; or

"(C) whether, because of significant information that was not (and could not reasonably have been) presented in the proceeding wherein the regulation was established, it would be unreasonable to require such a product to comply with the regulation.".

(b) Section 6(b) (7 U.S.C. 136d(b)) is revised to read as follows:

"(b) CANCELLATION.—

"(1) NONCOMPLYING PRODUCTS.—If the Administrator determines that any of the terms of registration of a registered pesticide product (or category of such products) does not comply with the provisions of this Act or any regulation issued under this Act, or determines that use of a registered pesticide product (or category of such products) in accordance with widespread and commonly recognized practice generally causes unreasonable adverse effects on the environment, the Administrator may issue a notice of intent—

"(A) to cancel the registration; or

"(B) to cancel the registration unless specified modifications to the terms of registration of the product(s) are requested by the registrant(s).

"(2) IMPROPER APPLICATION, ETC.—The Administrator may issue a notice of intent to cancel the registration of a pesticide product, or to cancel the registration unless specified modifications to the terms of registration of the product are requested by the registrant, if the Administrator determines that the product was registered (or that its registration was amended)—

"(A) in response to an application that contained or cited any information or representation which the applicant knew or reasonably should have known, at the time of filing the application, was false, inaccurate, or misleading; or

"(B) in response to an application that contained or cited any information which was required to be submitted and which was false, inaccurate, or misleading, if the Administrator determines that cancellation of the registration would be in the public interest, taking into account the need to use the data to determine whether the product may cause unreasonable adverse effects on the environment if used during the period required for replacement of the information and the degree of care which the applicant exercised in obtaining and submitting the information; or

"(C) in response to an application that did not comply with the requirements of the Act or regulations issued under the Act and that was mistakenly approved by the Agency because of clerical error or other improper ministerial Agency action; or

"(D) in response to an application that was approved on the basis of the prior approval of another application that the Administrator determines is described by subparagraph (A), (B), or (C) of this paragraph, if a notice of intent to cancel the registration resulting from that other application has been issued.

"(3) NOTICE; REQUIRED CONTENTS.—Each notice issued under paragraph (1) or (2) of this subsection shall state the reasons for and factual basis of the notice. Each notice issued under paragraph (1)(B) or (2) of this subsection shall specify each required modification in the terms of registration.

"(4) PUBLICATION OF NOTICE.—A notice of denial, notice of intent to cancel, notice of suspension, or notice of intent to suspend issued under this Act shall be published in the Federal Register and shall be sent by certified mail, return receipt requested, to the registrant's or applicant's address of record on file with the Agency. If the mailed notice is returned to the Agency as undeliverable at that address, if delivery is refused, or if the Agency otherwise is unable to accomplish delivery of the notice to the registrant or applicant after making reasonable efforts to do so, the notice shall be deemed to have been received by the registrant or applicant on the date the notice was published in the Federal Register.

"(5) REVIEW BY SECRETARY OF AGRICULTURE.—At least 60 days prior to issuing a notice under paragraph (1) or (2) of this subsection, the Administrator shall provide the Secretary of Agriculture with a document containing the substance of the actions proposed and the reasons therefor and an analysis of the impact on the agricultural economy of the actions that could result from issuance of the notice and any resultant hearing or order: *Provided*, That such document need not be furnished if the

notice implements a regulation issued under subsection (a) of this section upon which opportunity to comment has been furnished to the Secretary under section 25(a)(2) of this Act. If the Secretary comments in writing to the Administrator regarding the document within 60 days after receiving them, the Administrator shall publish such comments and any Agency response in the Federal Register with the notice. The comment period established by this paragraph may be waived or modified by agreement of the Administrator and the Secretary. Notwithstanding any other provisions of this subsection (b) or of section 25(d) or (e), if the Administrator determines that an immediate suspension under subsection (c) is necessary, the Administrator may waive the requirement of advance notice to the Secretary under this paragraph and to the Scientific Advisory Panel under sections 25(d) and 25(e), and may proceed in accordance with subsection (c).

"(6) REQUEST FOR HEARING; EFFECT OF FAILURE TO REQUEST HEARING.—The action proposed by a notice of intent to cancel issued under paragraph (1)(A), (1)(B), or (2) of this subsection shall become final and effective at the end of 30 days from the date of receipt of the notice by the registrant or from the date of publication of the notice in the Federal Register, whichever occurs later, unless within that time the Administrator receives—

"(A) a request from the registrant (or from any person adversely affected by the notice) for a hearing concerning the product, if the notice did not specify modifications in the terms of registration that could be made in lieu of cancellation; or

"(B) with respect to each term of registration found to require specified modifications in a notice issued under paragraph (1)(B) or (2) of this subsection, either a request from the registrant (or from any person adversely affected by the notice) for a hearing concerning the product, or an application from the registrant to amend the terms of registration in the manner specified in the notice.".

(c) Section 6(c) (7 U.S.C. 136d(c)) is amended—

(1) in section 6(c)(1) by deleting the second sentence thereof and substituting therefor the words "A suspension order may prohibit the distribution or sale of the pesticide product, may prohibit use of the product, or both. No suspension order may be issued under this subsection unless the Administrator has issued or at the same time issues either (A) a notice of intent to cancel the registration of the pesticide product under subsection (b)(1) of this section, or (B) a notice commencing a rulemaking proceeding with respect to the product under subsection (a) of this section."; and

(2) in section 6(c)(4) by deleting the word "classification" and substituting therefor the words "the terms of registration".

(d) Section 6(d) (7 U.S.C. 136d(d)) is revised to read as follows:

"(d) PUBLIC HEARINGS AND SCIENTIFIC REVIEW.—

"(1) If a hearing is requested pursuant to subsection (b) or (e) of this section or section 3(c)(2)(B)(iv) or 3(c)(6) of this Act, or if the Administrator convenes a hearing under subsection (a)(2) of this section, a hearing shall be held after due notice for the purpose (subject to subsection (a)(5) of this section) of receiving evidence relevant and material to the issues raised by the request for hearing, or to the issues stated by the Administrator if the hearing is convened under subsection (a)(2) of this section. Any interested person may intervene in such a hearing. The hearing shall be held in accordance with the provisions of subchapter II of title 5 of the United States Code, except that the burden of persuasion in a hearing held in response to a notice issued under subsection (b)(1) of this section or under section 3(c)(6) of this Act or convened under subsection (a)(2) of this section shall rest with the party or parties contending that use of the pesticide product does not cause unreasonable adverse effects on the environment. The Administrator may by regulation prescribe rules of procedure for hearings under this subsection.

"(2) Upon a showing of relevance and reasonable scope of evidence sought by any party to a public hearing, the Administrative Law Judge shall issue a subpoena to compel testimony or production of documents from any person. The Administrative Law Judge shall be guided by the principles of the Federal Rules of Civil Procedure in allowing and controlling discovery and in making any order for the protection of the witness or the content of documents produced and shall order the payment of reasonable fees and expenses as a condition of requiring testimony of the witness. On contest, the subpoena may be enforced by an appropriate United States district court in accordance with the principles stated herein.

"(3) Upon the request of any party to a public hearing and when in the judgment of the Administrative Law Judge it is necessary or desirable, the Administrative Law Judge shall at any time before the hearing record is closed refer to a committee of the National Academy of Sciences relevant questions of scientific fact involved in the public hearing. No member of any committee of the National Academy of Sciences established to carry out the functions of this section shall have a financial or other conflict of interest with respect to any matter considered by such committee. The committee shall report in writing to the Administrative Law Judge as soon as practicable after such referral on these questions of scientific fact. The report shall be made public and shall be considered as part of the hearing record. The Administrator shall enter into appropriate arrangements with the National Academy of Sciences to assure an objective and competent scientific review of the questions presented to committees of the Academy and to provide such other scientific advisory services as may be required by the Administrator for carrying out the purposes of this Act.

"(4) As soon as practicable after completion of the hearing (including the report of the Academy), the Administrator shall evaluate the record of the hearing and any findings and conclusions of the Administrative Law Judge and—

"(A) if the hearing was requested in response to a notice under subsection (b) of this section or section 3(c)(2)(B)(iv) or 3(c)(6) of this Act, the Administrator shall issue an order either revoking the notice, canceling or denying the registration, or requiring modification of the terms of registration of the product. Such order shall be based only on substantial evidence of record and shall set forth detailed findings of fact upon which the order is based; or

"(B) if the hearing was convened under subsection (a)(2) of this section, the Administrator shall make and set forth detailed findings of fact based only on substantial evidence of record and shall include such findings, and the record of the hearing, in the record of the rulemaking being conducted under subsection (a) of this section.".

(e) Section 6 is further amended by adding at the end thereof the following new subsections:

"(g) FINALITY; REOPENING OF PROCEEDINGS.—The Administrator may issue regulations governing the right to a hearing under this section with regard to the denial of any application for the registration of a product containing an ingredient which was the subject of a prior notice of intent to cancel. Under such regulations, due weight shall be given to the desirability of finality of prior proceedings and determinations and to the extent to which the applicant had a prior opportunity to participate in earlier proceedings.

"(h) GENERAL.—

"(1) VOLUNTARY CANCELLATION.—A registrant may at any time request that any of its product registrations be cancelled or be amended to delete one or more uses. The Administrator shall approve such a request unless the product is the subject of a cancellation proceeding under section 6 and the Administrator determines that the public interest would be served by disapproving the request and continuing such cancellation proceeding.

"(2) CANCELLATION AFTER FIVE YEARS.—The Administrator shall cancel the registration of any pesticide at the end of the five-year period which begins on the date of its registration (or at the end of any five-year period thereafter) unless the registrant, or other interested person with the concurrence of the registrant, before the end of such period, requests in accordance with regulations prescribed by the Administrator that the registration be continued in effect.

"(3) EXISTING STOCKS.—The Administrator may permit the continued use, the continued distribution or sale, or both, of existing stocks of a pesticide product whose registration is suspended or cancelled under any provision of this Act to such extent, under such conditions, during such periods, and for such uses as he may specify if he determines that such distribution, sale, or use is not inconsistent with the purposes of this Act and will not cause unreasonable adverse effects on the environment.

"(4) PETITION.—Any person may petition the Administrator to cancel or suspend the registration of a pesticide product, or to issue, modify, or rescind a regulation under this Act.

"(5) ADDITIONAL INFORMATION.—If at any time after the registration of a pesticide the registrant has additional information regarding unreasonable adverse effects on the environment of the pesticide, he shall submit such information to the Administrator. For purposes of this paragraph, 'information' shall include factual information and expert opinion regarding risks or benefits.".

RECORDS

SEC. 6. Section 8 (7 U.S.C. 136f) is amended to read as follows:

"SEC. 8. RECORDS.

"(a) AUTHORITY TO REQUIRE RECORDS.—The Administrator may by regulation require any producer, registrant, applicant for registration, applicant for or holder of an experimental use permit, pesticide testing facility, or commercial applicator, or any person who distributes or sells any pesticide—

"(1) to prepare, and to maintain for reasonable periods of time, such records as the

Administrator finds to be necessary for the effective implementation or enforcement of this Act;

"(2) to furnish to the Administrator reports stating the location where the records are maintained; and

"(3) to furnish a copy of any such record to the Administrator upon written request.

"(b) LIMITATIONS.—The Administrator may not, under the authority of this section, require any person to maintain records of—

"(1) financial data or pricing data;

"(2) personnel data, except for data concerning exposure of employees to pesticides or ingredients of pesticides, or concerning health effects on employees that could reasonably be attributable to such exposure; or

"(3) research or test data (other than data relating to registered pesticide products, data relating to any products for which an application for registration or for an experimental use permit has been filed, or data relating to the conduct of testing at a pesticide testing facility).".

INSPECTIONS

SEC. 7. (a) Section 9(a) (7 U.S.C. 136g(a)) is amended to read as follows:

"(a) AUTHORITY TO ENTER, INSPECT, AND COPY.—Officers or employees of the United States or of any State, duly designated by the Administrator, are authorized at reasonable times, as provided by this section—

"(1) to enter any place where any pesticide, active ingredient, or device is distributed or sold, in order to inspect and obtain samples of any pesticide, active ingredient, or device being distributed or sold at such place, or of any packaging or labeling of any such pesticide, active ingredient, or device;

"(2) to enter any place where there are located any records required by or under this Act, or any place reported pursuant to section 8(a) as a location where such records are maintained, in order to inspect and obtain copies of such records;

"(3) to enter any pesticide testing facility, in order to inspect the facility and the testing being conducted at the facility, and to inspect and obtain copies of any records required by or under the authority of this Act to be maintained by the pesticide testing facility; and

"(4) to enter any place where such officer or employee has probable cause to believe that the Act has been or is being violated by any person other than a person acting in the capacity of a private applicator, in order to inspect such place to obtain evidence of such violation.".

(b) Section 9(b) (7 U.S.C. 136g(b)) is amended to read as follows:

"(b) WARRANTS.—Officers or employees of the United States or of any State or political subdivision thereof, duly designated by the Administrator, are empowered to obtain and to execute warrants authorizing—

"(1) entry for the purposes of this section;

"(2) inspection and copying of all records required under this Act; and

"(3) seizure of any pesticide or device which is in violation of this Act.".

(c) Section 9 is further amended by adding at the end thereof a new subsection, to read as follows:

"(d) PROCEDURE.—Before any entry or inspection of any premises not open to the general public is made under this section, the person conducting the inspection shall present to the person in charge of the premises appropriate credentials, and a written statement of the reason for the inspection and whether a violation of the law is suspected. Each inspection shall be commenced and completed with reasonable promptness. If the person conducting the inspection obtains any samples of pesticides or devices, prior to leaving the premises he shall give to the person in charge of the premises a receipt describing the samples and, if requested and practicable, a portion of each such sample equal in volume or weight to the portion retained. If an analysis of any such sample is made, a copy of the results of such analysis shall be furnished on request to the person in charge of the premises.".

PROTECTION OF TRADE SECRETS AND OTHER INFORMATION

SEC. 8. (a) Section 10(d) (7 U.S.C. 136h(d)) is amended in paragraph (3) by deleting the word "If" in the first sentence thereof and substituting therefor the words "Except with respect to determinations requiring disclosure of information in inert ingredient statements in accordance with section 2(n) of this Act, if".

(b) Section 10 (7 U.S.C. 136h) is further amended by adding at the end thereof the following:

"(h) DISCLOSURE TO STATES.—The Administrator may disclose to any State any data or information acquired under the authority of this Act if the Administrator has first determined that the laws and regulations of the State prohibit disclosure of the data to any person who would not be entitled to obtain the data from the Administrator under this Act.".

(c) Section 10 (7 U.S.C. 136h) is further amended by adding at the end thereof the following:

"(i) DISCLOSURE TO FOREIGN GOVERNMENTS.—Notwithstanding any other provision of this Act, the Administrator may disclose data or information obtained under the authority of this Act to the government of another country if—

"(1) a bilateral treaty or agreement exists between the United States and that country authorizing the mutual exchange and protection of data and information pertaining to pesticides; and

"(2) the Adminstrator, after consultation with the Secretary of State and after notice and opportunity for public comment, has determined that the laws of that country provide protection equivalent to that provided by this Act against disclosure of the data or information and against use of the data or information to support any application for, or decision to grant, any license, permit, or other action to allow the production, distribution, or sale of a pesticide under the laws of any country; and

"(3) the Administrator determines that the particular disclosure is in the national interest; and

"(4) the Administrator notifies any applicant or registrant who submitted the information or data of the disclosure.

"(j) INFORMATION RECEIVED FROM FOREIGN GOVERNMENTS.—Notwithstanding any other provision of this Act, section 552 of title 5 of the United States Code, or any other provision of law, the Administrator shall not be required to disclose any data or information concerning pesticides if—

"(1) the Administrator obtained the data or information from the government of another country;

"(2) that government required the Administrator to agree not to disclose the data or information to the public as a condition of furnishing it to the Administrator;

"(3) the Administrator could not otherwise obtain the data or information; and

"(4) that government has not informed the Administrator that the data or information may be disclosed to the public.".

UNLAWFUL ACTS

SEC. 9. (a) Section 12(a) (7 U.S.C. 136j(a)) is amended—

(1) in subsection (a)(1) by deleting the words "distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person—" and substituting therefor the words "to distribute or sell to any person—";

(2) by revising subsection (a)(1)(A) to read as follows:

"(A) any pesticide product which is not registered under section 3 or whose registration has been cancelled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this Act;";

(3) by revising subsection (a)(2)(B) to read as follows:

"(B) to refuse to (i) prepare, maintain, or submit any records required under this Act or by regulations issued pursuant to this Act, (ii) submit any reports required by this Act or by regulations issued pursuant to this Act, or (iii) allow any entry, inspection, copying of records, or sampling authorized by this Act.";

(4) in subsection (a)(2)(F) by deleting the words "to make" and substituting therefor the words "to distribute or sell, or to make";

(5) in subsection (a)(2)(J) by deleting the words "section 6" and substituting therefor the words "this Act";

(6) by amending subsection (a)(2)(K) to read as follows:

"(K) to violate any cancellation order issued under this Act;";

(7) in section (a)(2)(M) by deleting the words "section 8" and substituting therefor the words "this Act";

(8) in subsection (a)(2)(O) by deleting the word "or" at the end thereof;

(9) by striking the period at the end of subsection (a)(2)(P); and

(10) by adding at the end thereof the following:

"(Q) to violate any regulation prescribed by the Administrator to carry out good laboratory practice standards;

"(R) to distribute or sell, to make available for use, or to use any pesticide product which is the subject of an exemption under section 18 in violation of the terms of the exemption;

"(S) who is a registrant, an applicant for registration, or a pesticide testing facility, to falsely or misleadingly represent any information relating to the testing of any pesticide (or any ingredient, metabolite, or degradation product thereof), including the nature of any protocol, procedure, substance, organism, or equipment used, observation made, or conclusion or opinion formed if such representation is made to the Agency, or is made in any document or record which the person making it knows or reasonably should know will be furnished to the Agency or will become a part of any records required to be maintained by this Act or by regulations issued under this Act; or

"(T) who is a registrant, an applicant for registration, or a pesticide testing facility, or who distributes or sells any pesticide, or who is a commercial applicator, or who applies any pesticide for hire, to violate any regulation issued under the authority of this Act.".

(b) Section 12 (7 U.S.C. 136j) is amended by adding at the end thereof a new subsection (c) to read as follows:

"(c) ACTS OF OFFICERS, AGENTS, ETC.—When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, employee, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed.".

PENALTIES

SEC. 10. (a) Section 14(a) (7 U.S.C. 1361(a)) is amended—

(1) in subsection (a)(1)—

(A) by inserting after the words, "commercial applicator," the words "applicant for registration, or any pesticide testing facility, or any";

(B) by deleting the word "distributor" and substituting therefor the words "person who distributes or sells any pesticide or device,";

(C) be deleting the words "$5,000" and substituting therefor the words "$25,000";

(D) by adding after the words "offense." the words "Each day such a violation continues shall, for the purposes of this subsection, constitute a separate offense.";

(2) in subsection (a)(2)—

(A) by deleting the words "$1,000" each time they appear and substituting therefor the words "$5,000";

(B) by deleting the words "$500" and substituting therefor the words "$2,500";

(C) by adding at the end thereof the words "Each day such a violation continues shall, for the purposes of this subsection, constitute a separate offense."; and

(3) in subsection (a)(3) by deleting the period at the end thereof and substituting therefor the words ": *Provided*, That if the person neither resides nor has his principal place of business in the United States, the Administrator may designate a site for the hearing in the United States which is reasonably convenient for the parties."; and

(4) in subsection (a)(4) by adding the words "the economic benefit (if any) resulting from the violation," immediately after the words "to continue in business," in the first sentence thereof.

(b) Section 14(b) (7 U.S.C. 1361(b)) is amended—

(1) in subsection (b)(1)—

(A) by inserting after the words "commercial applicator the words "applicant for registration, or any pesticide testing facility, or any";

(B) by deleting the word "distributor" and substituting therefor the words "person who distributes or sells any pesticide or device,";

(C) by deleting the word "misdemeanor" and substituting therefor the word "felony";

(D) by deleting the words "one year" and substituting therefor the words "two years"; and

(2) in subsection (b)(2)—

(A) by deleting the words "30 days" and substituting therefor the words "one year";

(B) by deleting the words "$1,000" and substituting therefor the words "$5,000"; and

(3) by deleting subsection (b)(4).

(c) Section 14 is further amended by adding at the end thereof the following new subsection:

"(c) SUBPOENAS.—The Administrator may, in connection with administrative proceedings under subsection (a) of this section, issue subpoenas compelling the attendance and testimony of witnesses and subpoenas duces tecum, and may request the Attorney General to bring an action to enforce any subpoena under this section. The district courts shall have jurisdiction to enforce such subpoenas and impose sanctions.".

INDEMNITIES

SEC. 11. Section 15 (7 U.S.C. 136m) is amended by adding a new subsection at the end thereof to read as follows:

"(c) LIMITATION.—Notwithstanding any other provision of this Act, no indemnity payment under this section shall be made on account of any suspension of registration of a pesticide product which occurs after the effective date of this subsection.".

ADMINISTRATIVE PROCEDURE; JUDICIAL REVIEW

SEC. 12. Section 16 (7 U.S.C. 136n) is amended by adding at the end thereof a new subsection, to read as follows:

"(e) REVIEW OF REGULATIONS.—(1) Any regulation issued under this Act and first published in the Federal Register in final form after the effective date of this subsection or any refusal of a petition to modify or rescind such a regulation shall be reviewable only as provided by this subsection. Any person may obtain judicial review of such a regulation or refusal by filing a petition for review in the United States court of appeals for the circuit wherein the person resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia. Any petition under this subsection for review of a regulation shall be filed within sixty days from the date of promulgation of the regulation as determined by the Administrator in the Federal Register. Any petition under this subsection for review of a refusal to modify or rescind a regulation shall be filed within sixty days after such refusal. The scope of review shall be as specified in section 706 of title 5, United States Code. The commencement of proceedings under this paragraph shall not, unless specifically ordered by the court to the contrary, operate as a stay of the regulation.

"(2) Action of the Administrator with respect to which review could have been obtained under paragraph (1) of this subsection shall not be subject to judicial review in any suspension, cancellation, or denial proceeding under this Act or any appeal therefrom, nor in any proceeding under section 13, 14, or 16(c) of this Act or any appeal therefrom.".

DISPOSAL AND TRANSPORTATION

SEC. 13. Section 19(a) (7 U.S.C. 136q(a)) is amended by inserting after the words "canceled under section 6(c)" the words "on or before October 1, 1985".

DELEGATION AND COOPERATION

SEC. 14. Section 22 is amended by adding at the end thereof a new subsection, to read as follows:

"(c) EFFECT ON CERTAIN OTHER LAWS.—In exercising any authority under this Act, the Administrator shall not, for purposes of section 653(b)(1) of Title 29, United States Code, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.".

AUTHORITY OF STATES

SEC. 15. Section 24(c) (7 U.S.C. 136v(c)), is amended in subsection (c)(1) by deleting the period at the end thereof and substituting therefor the words "*Provided*, That such a registration shall expire and be of no further effect, without further action by the Administrator—

"(A) at the end of the period, if any, provided as the duration of the registration by the State which approved it; or

"(B) 10 days after the date the Administrator publishes in the Federal Register a notice stating that the State which issued the registration has informed the Administrator that the State no longer desires the registration to continue in effect.".

AUTHORITY OF ADMINISTRATOR

SEC. 16. (a) Section 25(a) (7 U.S.C. 136w(a)) is amended by revising subsection (a)(4) to read as follows—

"(4) CONGRESSIONAL REVIEW OF REGULATIONS.—Notwithstanding any other provision of this Act, simultaneously with the promulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. The rule or regulation shall not become effective until the passage of 60 calendar days after the rule or regulation is so transmitted.".

(b) Section 25(c) (7 U.S.C. 136w(c)) is amended—

(1) by inserting after the words "notice and opportunity for hearing," the words "or by issuance of regulations,"; and

(2) by deleting the words "prescribe regulations requiring" in paragraph (5) thereof and substituting therefor the word "require".

SECTION-BY-SECTION DESCRIPTION OF DRAFT PESTICIDE AMENDMENTS

[SECTION 1]

[SECTION 2]

[SECTION 3]

Section 3 of the amendments would amend FIFRA § 2, which defines terms used elsewhere in the Act.

Section 3(a)(1) would make a technical change in the definition of the term "certified applicator." The second sentence of § 2(e)(1), which provides that certain applicators shall not be deemed to be sellers or distributors of pesticides, would be made a part of the new definition of the term "distribute or sell" (see section 3(f) of these amendments).

Section 3(a)(2) would delete the definition in FIFRA § 2(e)(4) of the term "under the direct supervision of a certified applicator." In section 4(c) of these amendments, companion changes would allow the Administrator to specify the extent of supervision which must be exercised by certified applicators over the application of restricted-use pesticides by uncertified applicators.

Secton 3(b) of the amendments would revise the definition of the term "imminent hazard," which contains the grounds for suspension under FIFRA § 6(c). Under current law, an imminent hazard justifying a suspension exists if continued use of a pesticide during the time required for a cancellation proceeding would be likely to result in unreasonable adverse effects on the environment or would involve unreasonable hazard to an endangered species. Under the amendment, an imminent hazard justifying a suspension would also exist if such effects or hazard would result from continued use of a pesticide during the time required for a rulemaking proceeding under the revision to FIFRA § 6(a) proposed in Section 5(a) of these amendments.

Section 3(c) of these amendments would revise and expand the definition of the term "ingredient statement." (The label of a registered pesticide must contain an ingredient statement.) The amendment would clarify that the Administrator may require, in addition to the name and percentage of each active ingredient and the total percentage of inert ingredients, the name (and, to the

extent necessary, the percentage) of any inert ingredient which the Administrator determines must appear in the ingredient statement because of the hazard which the Administrator has determined may be posed by the presence of that ingredient. The amendment would also codify the long-standing Agency practice of requiring that, when necessary to represent accurately the nature of the active ingredient, the ingredient statement contain other information concerning the chemical composition or identity of any active ingredient in the product (e.g., information on chemical equivalency); this would generalize the specific requirement already contained in the existing statute with regard to various forms of arsenic.

Section 3(d) is a technical amendment which would modify the definition of the term "pesticide" contained in FIFRA § 2(u) by stating clearly that the term includes any substance or mixture which contains an active ingredient and which any person distributes or sells in any State for use in manufacturing or formulating a pesticide or for repackaging as a pesticide. Such substances and mixtures have in fact been treated been regarded as pesticides for many years, as current FIFRA § 3(c)(2)(D) indicates.

Section 3(e) of the amendments would revise FIFRA § 2(ee), which defines the unlawful act (see FIFRA 12(a)(2)(G)) "to use any registered pesticide in a manner inconsistent with its labeling." The amendment would include within the definition the application of a pesticide at any dosage, concentration, or frequency less than that specified on the labeling, or application by any method not specified by the labeling, *if* the label specifically prohibited deviation from the label instructions on dosage, concentration, frequency, or method of application.

Section 3(f) would add new definitions at the end of FIFRA § 2. A new FIFRA § 2(ff) would define the term "distribute or sell" to allow simplification of language in several other amendments (see proposed new or revised FIFRA §§ 2(gg), 3(a), 6(c), 8(a), 6(h)(3), 9(a)(1), 12(a)(1), 12(a)(2) (R) and (T), 14(a)(1), and 14(b)(1)). The term incorporates all the terms used in various places in the current statute (FIFRA § 3(a), 6(a)(1), 7(b)(1)(C), 9(a), and 12(a)(1)) to connote introduction into, or movement in, commerce.

A new FIFRA § 2(gg) would define the term "pesticide product" to mean a pesticide in the particular form (including composition, labeling, and packaging) in which it is (or is proposed to be) distributed or sold. The term is used in other proposed amendments. The current statute uses the term "pesticide" in different senses: sometimes the context indicates a reference to a category of pesticides having some common ingredient or property, while at other times the term refers to a particular product whose registration is being sought, denied, cancelled, or suspended. This new definition would make it clear that the term "pesticide" refers to "pesticide product" in those latter cases where the context so indicates.

A new FIFRA § 2(hh) would define the term "pesticide testing facility," another term used in several other of these amendments, to mean any person that conducts any test, study, survey, or investigation of the properties, effects, or behavior of any pesticide (or any ingredient, metabolite, or degradation product thereof) for or on behalf of any registrant, applicant for registration, or other person who sells or distributes the pesticide (or contemplates selling or distributing it). A proviso would make clear that the term does not include any person solely on account of such person's role as a cooperator (a person who allows his premises to be used for tests of a pesticide) in compliance with an experimental use permit under section 5 of this Act.

Finally, a new FIFRA § 2(ii) would define "terms of registration" to mean the requirements imposed on a pesticide product under FIFRA concerning the product's composition, labeling, and packaging, and any restrictions on its distribution, sale, or use. This term is used in several other of the amendments, and is defined here to allow clearer and more efficient language elsewhere.

SECTION 4

Section 4(a) of the amendments would simplify FIFRA § 3(a), the statute's basic statement of the requirement that pesticides be registered, by substituting the newly-defined term "distribute or sell" for the long list of commercial acts in the current provision. It would make no substantive change.

Section 4(b)(1) of the amendments would make identical amendments to FIFRA §§ 3(c)(1)(D)(ii) and 3(c)(2)(B)(iv), as they concern the extent of judicial review of decisions of arbitrators in disputes concerning compensation for use of data or allocation data generation expenses. These amendments would moot a current court challenge to the constitutionality of the current statute's limitation on judicial review which, if decided adversely to the position of the government, could adversely affect the working of the statute's data cost-sharing mechanisms and the Agency's registration and data-gathering efforts. Under the amendment, arbitrator's decisions would be reviewable only in the United States Court of Appeals for the circuit in which the petitioner resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia, upon a petition for review filed by a party to the arbitration within 60 days after the entry of the arbitrator's decision (or, in order to cover decisions issued prior to the enactment of this amendment, within 60 days of such enactment). The arbitrator's decision would be treated as if it were the decision of an administrative agency for purposes of 28 U.S.C. 2112 (which concerns such matters as assembling and filing with the court the record for review). The amendment would also provide that any expenses incurred by the arbitrator on account of court review would be shared equally by the parties to the arbitration, just as the arbitrator's fee and other expenses are shared under the current statute.

Section 4(a)(2) would make a technical change to FIFRA §§ 3(c)(3) and 3(c)(6). Section 3(c)(3) requires the Administrator to review applications and either register the product under § 3(c)(5) or deny the application under § 3(c)(6), while § 3(c)(6) now requires the Administrator to deny the application if it does not meet the requirements of § 3(c)(5). When § 3(c)(7) (conditional registration) was added to the statute in 1978 as an alternative to registration under § 3(c)(5), cross-references to it in §§ 3(c)(3) and 3(c)(6) were inadvertently omitted; this amendment would remedy that omission.

Section 4(c) of the amendments would make several changes to FIFRA § 3(d), which concerns classification of pesticides for restricted use. FIFRA § 3(d)(1)(A) would be amended by deleting the words "on the initial classification," thus clarifying the Administrator's authority to classify products for restricted use by rulemaking at any time. FIFRA §§ 3(d)(1)(C)(i) and 3(d)(1)(C)(ii) would be amended to allow the Administrator to require that a restricted use pesticide be applied only by a certified applicator or only under such degree of supervision of a certified applicator as the Administrator may specify. Also, § 3(d)(1)(C)(ii) would be amended by deleting the special court of appeals review provision for regulations issued under that section, which would be unnecessary upon enactment of proposed amendments 5(a) and 13. Substituted for the current provision would be language stating that any regulations establishing other regulatory restrictions would be issued pursuant to proposed FIFRA § 6(a).

The amendment also would revise FIFRA § 3(d)(2) by deleting the special procedure now required for changing a product's classification from general use to restricted use and by providing that if the Administrator concludes that a change from general use to restricted use is warranted, or that additional restrictions are necessary, the Administrator may impose such restrictions using the procedures set forth in proposed §§ 6(a) or 6(b)(1)(B).

FIFRA § 3(d)(3) would be amended to delete the special procedure provided by the current statute which allows a registrant to appeal the denial of a petition for the removal of restriction on a product's use to a United States District Court. In lieu thereof would be added a statement that such a petition would be treated as an application to amend the registration or to modify or rescind any controlling regulation, thus providing the registrant with the same remedies afforded registrants seeking other types of amendments to their registrations.

SECTION 5

Section 5 of the amendments would modify FIFRA § 6 concerning cancellation of pesticide registrations. The changes would make the process more efficient by establishing rulemaking as the primary method for determinig whether products cause unreasonable adverse effects on the environment and what regulatory steps should be taken to address such effects. The Administrator's authority to issue suspension orders or emergency suspension orders would not be subject to this change. In addition, the amendments to FIFRA § 6 would allow registrations to be cancelled if they were found to have been approved on the basis of data later found to be false, inaccurate, or misleading, or to have been wrongly approved due to clerical error. Finally, this amendment would address various problems that have arisen in the administration of the Act and give recognition in the statute to administrative practices that have become routine.

Section 5(a) would amend FIFRA § 6(a) to provide that rulemaking, rather than formal adjudication, shall be the primary mechanism for deciding whether uses of pesticides cause unreasonable adverse effects on the environment, (Current § 6(a), whiich contains a number of miscellaneous provisions, would be redesignated § 6(h).) Proposed FIFRA § 6(a)(1) would specifically authorize the Agency to determine by regulation that use of a pesticide product (or category of products) causes unreasonable adverse effects on the environment, and the terms of registration, if any, under which the product may be distributed, sold, or used. Proposed § 6(a)(2) would allow the Ad-

ministrator to elect to use formal hearing procedures, as part of a rulemaking proceeding, in order to resolve one or more particular issues. Proposed § 6(a)(3) would specify that regulations under § 6(a) would be reviewable in courts of appeals, as provided by proposed FIFRA § 16(e) (see section 12 of these amendments). Proposed § 6(a)(4) would provide that issuance of notices of intent to cancel based on unreasonable adverse effects would have to be preceded by a rulemaking under § 6(a)(1). A notice of intent to cancel would be issued without first conducting a rulemaking only when the Administrator concluded in a particular case that it would be more efficient to use formal adjudication, rather than rulemaking, to resolve the substantive issues involved. Provision is also made to allow issuance of cancellation notices without prior rulemaking during a transition period following enactment of these amendments. Finally, proposed § 6(a)(5) would permit an opportunity for a cancellation hearing resulting from a notice of intent to cancel that was based on regulation under § 6(a)(1). The hearing's scope would be limited to whether the product in question was covered by the regulation, whether the product was in compliance with the requirements imposed by the regulation, and whether significant information that could not have been presented in the rulemaking would make it unreasonable to require the product to comply with the regulation.

Section 5(b) of the amendments would rewrite FIFRA § 6(b) to add additional grounds for cancellation, delete the fact-finding hearing provided for in current FIFRA § 6(b)(2) (the proposed rulemaking amendment would eliminate the need for this kind of hearing), and make a number of technical and clarifying changes. As amended, FIFRA § 6(b)(1) would clarify the Administrator's authority to cancel the registration of a pesticide product (or to cancel unless specified modifications to the terms of registration are requested by the registrant). In order to take this action, the Administrator would have to determine that one or more of the terms of registration of the product did not comply with the provisions of FIFRA or any regulation issued under FIFRA, or that use of the product in accordance with widespread and commonly recognized practice generally caused unreasonable adverse effects on the environment.

Proposed FIFRA § 6(b)(2) would authorize issuance of a notice of intent to cancel a registration which was approved on the basis of false, inaccurate, or misleading information in the registration application. Cancellation proceedings would be authorized if the applicant knew or reasonably should have known that the application was false, inaccurate, or misleading. Where the applicant did not know the application contained false, inaccurate, or misleading information, cancellation would be allowed if the Administrator determined that cancellation would be in the public interest, taking into account the importance of the data in determining whether the product may cause unreasonable adverse effects on the environment if used during the period required to replace the data and the degree of care exercised by the applicant in obtaining and submitting the information. Cancellation also would be authorized where the application was approved in violation of the statute or governing regulations as a result of Agency clerical or ministerial error, or where the registration was issued under FIFRA § 3(c)(7) in reliance on the existence of another registration which itself had been improperly issued.

The other changes to FIFRA § 6(b) are less significant. Proposed §§6(b)(3) and 6(b)(6) are conforming amendments. Proposed § 6(b)(4) would provide that Federal Register publication would constitute delivery of the notice for purposes of commencement of the 30-day period allowed for requesting a hearing in cases where the mailed copy of the notice is undeliverable. Proposed § 6(b)(5) would eliminate duplicative review requirements by the Secretary of Agriculture on notices of intent to cancel which merely implement final regulations issued under proposed § 6(a). (Under FIFRA § 25, such regulations could only be issued where the Secretary has been provided opportunity to comment on proposed and final versions of the regulation.) Existing review requirements for notices of intent to cancel not following a rulemaking would not be affected. Finally, the subsection has been subdivided for purposes of clarity.

Section 5(c) of the amendments would conform FIFRA § 6(c) (dealing with suspension of registrations) to the new rulemaking provisions of proposed § 6(a). The amendment also would clarify that a suspension order may prohibit distribution, sale, or use of a pesticide product; the current statute indicates this indirectly (see FIFRA §§ 2(1) and 15(b)(2)). The Administrator's suspension authority would not be otherwise affected by these amendments.

Section 5(d) of the amendments makes conforming changes to current FIFRA § 6(d) (which concerns cancellation hearing procedures). The amendments would codify the long-standing administrative practice of allowing any interested person to intervene in a hearing. The amendment would specify that the burden of persuasion in hearings concerning unreasonable effects on the environment shall rest with the parties who contend that a product does not cause such effects; this provision would continue existing law as to cancellation hearings and extend the same principle to hearings held as part of rulemakings under proposed FIFRA § 6(a). The amendments would also specify that the principles of the Federal Rules of Civil Procedure shall govern any discovery in hearings. The term "Administrative Law Judge" is substituted for the term "hearing examiner." Finally, the subsection has been subdivided for clarity.

Section 5(e) of the amendments would add two new subsections at the end of FIFRA § 6. Proposed § 6(g) would specifically authorize the Administrator to promulgate regulations governing the right to a hearing on the denial of an application for registration of a product containing an ingredient which was the subject of a prior notice of intent to cancel. Under such regulations, the Administrator would be directed to give due weight to the desirability of finality of prior proceedings and determinations and to the extent to which the applicant had had an opportunity to participate in the prior proceedings.

Proposed § 6(h) contains the provisions which now appear in FIFRA § 6(a) concerning five-year renewals and existing stocks orders, as well as certain new provisions. The amendment would add a provision recognizing the right of a registrant to voluntarily cancel its product. It also would add a provision that would confirm the Agency's interpretation of current FIFRA § 6(a)(2), i.e., that the section requires submission by registrants of post-registration information which consists of expert opinion (e.g., a pathologist's report from a toxicity study on the pesticide) or which concerns the benefits (or the lack thereof) of the pesticide. This interpretation was criticized in dictum in a 1980 federal court decision, *Chemical Specialties Manufacturers Ass'n* v. *EPA*, 484 F. Supp. 513 (D. D.C. 1980). Proposed § 6(h) also would expressly provide that any person may petition for the cancellation or suspension of a pesticide product or for the issuance, modification, or recission of a regulation under FIFRA.

SECTION 6

FIFRA § 8 currently allows EPA to promulgate regulations requiring "producers" of pesticides and devices to keep and submit records, and allows EPA access to the delivery and movement records of any "producer, dealer, carrier, and distributor." This amendment to § 8 would clarify that EPA's authority to require recordkeeping by regulation extends to registrants, applicants for registration, and persons who hold or are seeking experimental use permits. Further, the amendment would extend that authority to pesticide testing facilities and commercial applicators because of the growing need to monitor the quality of testing data under FIFRA and the application of restricted use pesticides. Under this amendment, persons who distribute or sell pesticides could be required to maintain records as necessary for the effective implementation and enforcement of the Act. All persons subject to § 8 could be required to furnish the Agency copies of the records on request. Authority to inspect records is treated separately in Section 7 of these amendments, which would amend FIFRA § 9.

SECTION 7

This amendment to FIFRA § 9 would clarify and consolidate current inspection provisions in FIFRA §§ 8 and 9, and extend EPA's inspection authority to places where there is probable cause to believe the Act has been or is being violated. It also would amend the authority of the Agency to obtain warrants; these amendments would bring the statute into conformance with U.S. Supreme Court decisions authorizing warrantless inspections of business premises and authorizing issuance of warrants in furtherance of neutral administrative inspection schemes as well as where probable cause of a violation exists. The amendment also would allow State officers or employees duly designated by the Administrator, as well as Federal officers or employees, to conduct inspections under FIFRA.

SECTION 8

Section 8 of the amendments would revise FIFRA § 10 (dealing with confidentiality of information) in two respects. First, it would amend § 10(d)(3) (which, inter alia, establishes criteria and procedures to be used when the Administrator proposes to disclose information on product formulas) to exempt, from its provisions, determinations made by the Administrator to require disclosure on the ingredient statements of product labels of hazardous inert ingredients of the product. Applicants or registrants who wish to contest such determinations may do so in a denial or cancellation hearing under FIFRA § 6(d) or a rulemaking under proposed § 6(a).

Second, it would add a new subsection which would clarify the extent of the Administrator's authority to disclose information obtained under FIFRA to state officials. Specifically, proposed § 10(h) would authorize the Administrator to disclose to

any state any data or information obtained under FIFRA if the Administrator first determined that the state's laws and regulations prohibit disclosure of such data or information to any person who would not be entitled to obtain it from the Administrator.

SECTION 9

This section of the amendments would make a series of changes to FIFRA § 12, which specifies acts that are unlawful.

Section 9(a) would amend FIFRA § 12(a). Section 9(a)(1) is a conforming change; see section 3(f) of the amendments. Section 9(a)(2) would include expressly in FIFRA what is already implicit: that it is unlawful to distribute or sell a cancelled or suspended pesticide except as authorized by the Administrator.

Section 9(a)(3), a companion amendment to sections 6 and 7 of these amendments, would make it unlawful to refuse to prepare, maintain, or submit any records or reports required by the Act or by regulations issued under the Act, or to refuse to allow any entry, inspection, copying, or sampling authorized by the Act.

Sections 9(a)(4)-(8) are technical or conforming amendments. Section 9(a)(9) would add three new "unlawful acts" provisions.

The first new provisions, proposed FIFRA § 12(a)(2)(Q), would make it unlawful for any person to distribute or sell, and make available for use, or use any pesticide which is the subject of an exemption under FIFRA § 18 in violation of the terms of the exemption.

The second provision, proposed FIFRA § 12(a)(2)(R), would make it unlawful for registrants, applicants, or pesticide testing facilities to falsely or misleading represent information relating to the testing of any pesticide in any representation made to the Agency or in any document or record which the person making it knows or reasonably should know will be furnished to the Agency or will become a part of any record required to be maintained by FIFRA or regulations issued under FIFRA. This provision would be a corrollary to the proposed new FIFRA § 6 authority to cancel registrations which were approved based on false or misleading data.

The third new provision, proposed FIFRA § 12(a)(2)(S), would make it unlawful for registrants, applicants, pesticide testing facilities, distributors or sellers of pesticides, and persons who apply pesticides for hire to violate regulations issued under FIFRA, thus allowing the Agency to enforce against those categories of persons the regulations it has authority to issue. This authority could, among other things, allow the Agency to seek civil or criminal penalties for pesticide testing facilities that violate good laboratory practice regulations prescribed by the Agency. This would provide clearer authority to assure the integrity of data being used for regulatory decisions. Current law does not allow the Agency to regulate a pesticide testing facility directly, unless the facility happens to be owned by the person who seeks to register a pesticide product. This amendment would close this potential gap in coverage.

Section 9(b) of the amendments is a technical change which redesignates current FIFRA § 14(b)(4) (dealing with vicarious responsibility) as § 12(c).

SECTION 10

This section would make a series of changes to FIFRA § 14, which deals with civil and criminal penalties for violations and related matters.

Section 9(a) of the amendments concerns civil penalties. It would add to the category of persons liable for the higher civil penalties under §§ 14(a)(1) and two new categories of persons: "applicants for registration" and "pesticide testing facilities." In addition, the amendment would raise the most serious FIFRA civil penalty levels five-fold, to the $25,000 per day of violation level of other environmental statutes, and thereby provide stronger incentive for compliance. The current lesser penalties in FIFRA, applicable to private applicators and some other persons, also would be increased. (Penalties still could be assessed against a private applicator only after he ignores a written warning.) The "per day" provision would ensure that continuing violations were treated differently than non-continuing violations. There is sufficient protection in the Act against imposition of a penalty so great as to affect ability to continue in business.

This amendment would also clarify the Agency's authority to consider the economic benefits of noncompliance (where applicable) as a factor in imposing civil penalties. This ensures both that penalties assessed could be high enough to create an economic as well as legal incentive to comply and that a violator does not obtain a competitive advantage over those who comply with the Act.

Section 9(b) of the amendments would amend the criminal penalty provisions of FIFRA § 14(b). It again would add "applicants for registration" and "pesticide testing facilities" to the § 14(b)(1) category of persons subject to higher penalties. It further would provide that violations by persons in that category would be chargeable as felonies, rather than as misdemeanors as the current statute provides, and that the maximum term of imprisonment would be two years, rather than the current one-year maximum. Felony-level charges would operate as a significant deterrent to would-be violators and would reflect the large health and environmental risks posed by criminal conduct under FIFRA. For private applicators and other persons in the misdemeanor category under § 14(b)(2), the maximum penalty would be increased from $1,000 to $5,000.

Section 9(c) of the amendments would confer authority upon the Administrator to issue subpoenas in civil penalty proceedings requiring appearance, testimony, and production of documents. These subpoenas could be enforced by order of U.S. District Courts in actions commenced by the Attorney General.

SECTION 11

This amendment would revise FIFRA § 15, concerning indemnity payments to owners of pesticide products whose registratons are suspended and cancelled, by providing that no indemnity entitlement would arise with regard to any pesticide suspended after the effective date of these amendments.

SECTION 12

This amendment would add a new subsection at the end of FIFRA § 16 to govern judicial review of regulations issued under FIFRA after the effective date of the amendments. Review would be proper only in the federal courts of appeals upon a petition filed within 60 days of the date of promulgation of the regulation in question. Court review of Agency denials of petitions to modify or rescind any such regulation would be governed by the same provision.

SECTION 13

This amendment, a companion to section 11 above, would modify FIFRA § 19(a), concerning disposal by the government of pesticide products whose registrations are suspended and cancelled, by providing that the government would not bear the responsibility of disposing of any such pesticide suspended after the effective date of these amendments.

SECTION 14

The amendment would add a subsection to FIFRA § 22 (concerning delegation and cooperation) to provide that in implementing FIFRA, the Administrator shall not be deemed to be exercising authority to prescribe or enforce workplace standards affecting occupational safety or health. This provision, which is modeled after a provision in the Toxic Substances Control Act, would allow EPA to regulate certain aspects of pesticide use in workplace situations without thereby preempting the Occupational Safety and Health Administration (OSHA) from also regulating other aspects of pesticide use in the workplace. In exercising their respective authorities to regulate pesticide use in the workplace, EPA and OSHA will continue to coordinate their activities between themselves and with the U.S. Department of Agriculture in keeping with the intent of existing FIFRA § 22(b).

SECTION 15

This amendment to FIFRA § 24(c) would provide that "special local needs" registrations issued by States would terminate without the need for cancellation hearings at the end of the period authorized by the State or at the time the State informed the Administrator that the registration is no longer deemed desirable. It thus would facilitate more accurate record-keeping by the Agency of the number and kinds of registrations that are active.

SECTION 16

This section of the amendments would make two changes in section 25, which concerns the general implementing authority of the Administrator. First, it would delete the "legislative veto" provision currently in the law, and replace it with a simpler provision requiring a 60-day delay in the effective date of regulations issued under FIFRA and a requirement that copies of the regulations be furnished to Congress upon promulgation. Second, it would make clear that the Administrator may take the actions listed under FIFRA § 25(c) by notice-and-comment rulemaking.●

CONSERVATION GROUP SUPPORTS NORTH PACIFIC FUR SEAL TREATY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. YOUNG of Alaska. Mr. Speaker, the other body will shortly be considering a protocol extending for 4 years the Interim Convention for the Conservation of North Pacific Fur Seals. Many Members of both bodies have been contacted by representatives of animal preservation groups urging that the Convention be terminated. I want to bring to the attention

of the House a resolution recently adopted by the National Audubon Society which recommends ratification of the Interim Convention.

The first fur seal convention was adopted in 1911. At that time, the world population of North Pacific fur seals totaled only 300,000 animals. Under the comprehensive management regime established by the convention and succeeding agreements, the fur seal population has increased to 1.2 million seals. I think this certainly demonstrates how wise management and international cooperation can save a species from extinction.

If the Interim Convention is not extended, we will lose all protection for fur seals outside our 200-mile exclusive economic zone. Some have suggested that protection can be extended by imposing restrictions on foreign vessels fishing in our zone. This would not work for a number of reasons.

First, foreign fishing will not continue indefinitely. Once it ends, there is no leverage. Second, not all nations that might harvest seals on the high seas fish in our zone. Third, we have already seen that such protective covenants do not necessarily work. The Soviet Union recently had its fish allocation reduced due to a dispute over whaling. This has not convinced the Soviet Union to change its whaling practices. In fact, the Soviet Union may refuse to continue fishing operations in our zone. Fourth, prohibitions such as have been suggested are difficult, if not impossible, to enforce. Finally, such restrictions might result in further problems for our fishermen without providing any additional protection.

In the words of the National Audubon Society, the Interim Convention "has a solid record of achievement in international wildlife conservation since its adoption in 1911." I think this record should remain unbroken. I urge Members to join with me in supporting extension of the Interim Convention.

Mr. Speaker, I ask that the text of the National Audubon Society's resolution be printed in the RECORD.

RESOLUTION ON CONSERVATION OF NORTH PACIFIC FUR SEALS

Whereas the "Interim Convention for the Conservation of North Pacific Fur Seals" has a solid record of achievement in international wildlife conservation since its adoption in 1911;

Whereas failure to ratify the Interim Convention would subject fur seals to the danger of indiscriminate and unregulated killing;

Whereas past and current research on the fur seals pursuant to the treaty is recognized by the scientific and conservation communities as some of the most outstanding ever designed and carried out on wildlife populations;

Whereas improved international cooperation in research, education, management and law enforcement will be vital to dealing with threats to the fur seals from entanglement in fish nets, increased natural mortality due to disease, predation, fluctuating food supplies and other biological factors;

Whereas continued opportunity for nonwasteful uses of fur seals by residents of the Pribilof Islands is essential to their physical, economic, traditional and cultural existence;

Whereas current declines in the Pribilof Island fur seal populations are serious and merit adoption of scientific management principles to the Interim Convention; and

Whereas opposition to the Interim Convention poses a serious threat to treaties as effective mechanisms in promoting international cooperation in wildlife conservation; Therefore be it Resolved, That the National Audubon Society supports ratification of the "Interim Convention for the Conservation of North Pacific Fur Seals" by the United States Senate; Be it further

Resolved, That the National Audubon Society recommends that ratification of the "Interim Convention" be contingent on adoption of scientific management principles that insure the problems confronting the fur seal population will be resolved in a timely manner.●

NATIONAL TRANSPORTATION WEEK

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. BIAGGI. Mr. Speaker, the President has proclaimed the week of May 12, 1985, as National Transportation Week. In his proclamation he states that our Nation's history can be traced through the development and growth of transportation in America. He notes that transportation today is critical to our economy and necessary to our defense.

On these points we can all agree. The difficulty has been actually developing a transportation policy that is in our national interest. In the maritime area, we have seen the U.S.-flag merchant marine decline to precipitous proportions with an alarming dependence on foreign-flag shipping for the transportation of our goods. I believe this is a threat to our economic well-being as well as our national security.

The United States is the greatest trading nation in the world. We have a fairly sophisticated network of commerical seaports. We have a national network of inland river ports. We have a capable and competitive domestic merchant marine. But what has happened to our capable and competitive offshore foreign trade fleet? Our combined share of bulk and general cargo carried in our foreign trade on U.S.-flag vessels has declined to less than 4 percent. The amount of bulk cargo that moves in U.S. bottoms is nearly nonexistent.

No one seems to dispute the need for a U.S.-flag merchant marine. The real issue is the type of maritime policy we must have in place to maintain a fleet that is in our economic and national defense interests. This policy must be coordinated and provide for a certain degree of stability to facilitate private entrepreneurial economic decisions.

Clearly, what is needed is a coordinated approach. The country must be made to recognize that we need a revitalized, competitive, and efficient U.S.-flag merchant marine, capable of carrying a substantial portion of our foreign waterborne commerce. It must be made aware that international shipping is not conducted in a free trade atmosphere. Foreign shipping has been and continues to be supported by the respective governments in their economic self-interest. We, on the other hand, seem to have a maritime policy that works against our self-interest and, in fact, adds to the economic interest and well-being of our trading partners. We must wake up and see the need to share in the movement of goods that are exported and imported by the greatest trading nation on earth. Hopefully, this will happen prior to the extinction of our merchant marine.

The last Congress—with the strong support of the administration—was able to amend the regulatory aspects of our shipping laws to provide for procedures that are consistent with those generally accepted in international trade. This will permit our liner fleet to compete on the same footing as the fleets of our foreign-flag trading partners.

We are now beginning to see the results of prior legislation that provided a 1-year window for building or acquiring vessels overseas. Many vintage vessels have been replaced by modern, efficient vessels. Another concerted and coordinated effort can and should provide us with a similar opportunity to replace the remainder of our vintage and fuel-inefficient fleet.

There are many more important issues facing the Nation and the U.S.-flag merchant marine. However, during this week of activity celebrating National Transportation Week, I would like the American public to be aware of the condition of, and the vital importance of, our merchant marine to the national economy and our defense. Revitalization of our merchant marine is a difficult one, but it is in our national interest. Let us all support our President and give full recognition to the importance of transportation to this country, particularly a healthy U.S.-flag merchant marine.●

END OF WAR CELEBRATION

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. LEVINE of California. Mr. Speaker, on Sunday, May 5, 1985, I had the honor of speaking to a group of veterans in Los Angeles about the 40th anniversary of the end of World War II. This was the same day that our President laid a wreath at the cemetery in Bitburg where 49 members of the Nazi SS are buried.

In responding to the veterans organizations which asked me to speak on May 5, I attempted to place the meaning of that day and its events in an appropriate perspective.

I would like to submit for the RECORD the text of my speech. The text follows:

STATEMENT OF MEL LEVINE

Three days from now—the 8th of May—will be the 40th anniversary of the end of World War II. We are gathered here today to honor those who gave their lives in that war in the defense of our country and of our democratic ideals.

World War II was one of the clearest conflicts between good and evil in the history of man. The root cause of World War II lay in the deliberate attempt by Nazi Germany to impose its authority over the entire European continent.

The war that began that fateful day in September 1939 was to last six long, grueling, agonizing years. Before it ended, it claimed over one million American victims. Over 407,000 Americans lost their lives, and over 670,000 were wounded. Almost every American family was touched by its breadth and drama. Brave, courageous, generous men and women served our cause by joining the Army, the Navy, the Marine Corps or the Coast Guard. Others worked in industries important to the war effort, and every citizen made sacrifices in a common bond toward a common goal: the defeat of totalitarianism and fascism. What were we fighting for? Why were we compelled to join our European allies in defeating Hitler and his mad machine?

The answers are clear, because the lines were clearly drawn. We were fighting for democracy over dictatorship; freedom over oppression; good over evil.

But the victory cost us dearly, for we were fighting against a force driven by wickedness more powerful than the world had ever seen: the cruel and pitiless Nazis. It was the elite of this group—the notorious SS—who were even more brutal than the others. It was they who carried out the worst atrocity against American Armed Forces in the European theatre in what became known as the Malmedy Massacre. Nearly 100 American soldiers were murdered in cold blood by the Nazi SS at Malmedy.

Forty-nine members of the Nazi SS are buried in the German military cemetery in Bitburg where President Reagan today is laying a wreath. That the President would choose to so honor them is almost incomprehensible because, according to former West German Chancellor Willie Brandt, it is well known in Bitburg that the cemetery graves of Nazi SS men include those who massacred United States prisoners of war.

One author has described the Nazi SS this way:

"With their black uniforms, death's heads (a symbol of their willingness to die for Adolf Hitler) on their caps, and the runic double S flashes on their collars, the SS men were the terror of the entire European continent. Whatever the actual roles of the young men buried at Bitburg, the 'SS' is one of the most potent symbols of evil and cruelty in history."

And so it is.

President Reagan was urged by Republican and Democratic Senators and Congressmen alike to find another way, to find another site, to honor German war resisters or symbols of freedom, but not to go to Bitburg.

That the President would lay a wreath at Bitburg has understandably outraged not just veterans and Holocaust survivors but Americans, Europeans, and others who even in an age of moral relativism refuse to forgive and forget the embodiment of absolute evil in the form of the Nazis. The President's decision has divided us from our allies, not made us closer. It has brought painful recriminations, not healing. It has reopened old wounds, not closed them.

It is neither pleasant nor easy to criticize our President on a day such as this, but, as an American who loves our land and cherishes our freedom, I believe it is necessary.

I do not believe he intended any harm, but his visit to Bitburg brought too much rancor to our land. It is true that the President decided to go to Bitburg in the spirit of reconciliation. Who among us would oppose reconciliation with a country which has proven to be a strong, democratic ally? Surely we are proud of the relationship between the United States and Germany today. It is an important relationship, and one that has been carefully and appropriately nurtured on both sides of the Atlantic. But that does not allow us to alter or rewrite history. The Nazi SS were part of a world of absolute evil, and that fact cannot be buried and forgotten with the bodies of those 49 Nazi SS members.

President Reagan has said that the German soldiers of World War II "were victims just as surely as the victims in the concentration camps." But that is not true. Those men were active participants in the attempt to destroy the very foundations of Western civilization, and no amount of rhetoric can change that.

And so it is highly appropriate that we meet here today as a way of coming together to pay homage to those who rightly deserve our respect and gratitude: those who have fought for freedom and those who have paid the highest price for freedom: those who paid with their lives.

And it is you veterans—each of you—who deserve to be honored today. Our state, California, has the largest veteran population in the United States. I say that with great pride. We all owe the highest debt to our veterans, a debt which should never be forgotten.

Perhaps there are veterans here who served in World War I, World War II, the Korean War and the Vietnam War. Perhaps there are those who fought the battles at Argonne, Normandy, the Battle of the Bulge, Iwo Jima, Okinawa, the Pusan Perimeter, the Ia Drang Valley, or the Siege of Khe Sanh. The mere mention of these names conjures up the magnitude of the valor needed to fight for what we believe in, not only at the scene of these battles, but in every way our veterans serve our nation.

In preparing this speech, I spoke with a friend of mine who fought in the Battle of the Bulge. He was then a young man of 20. I asked him if he felt that he was part of a great and glorious effort. He said no—there wasn't time. He did say there was a feeling of patriotism among his fellow soldiers, and of being involved in what General Eisenhower called a "crusade." And they never lost sight of the principles in which they believed and for which they were fighting.

But mostly he felt there was a job to be done, and he, along with others, did that job to the best of their ability. There was no glory, only hard work and guts.

And that, I think, is your most valuable contribution: your willingness to work hard—with courage and purpose—for the survival of the principles in which you—in which we—believe. Without your courage and purpose, ennobling concepts such as democracy, liberty, and freedom—all that we stand for as a society—could now be a footnote in history. So, it is not only the Pershings and Pattons and Taylors who deserve recognition for a job well done. It is you as well—every one of you.

To all of you I want to tell you it is an honor to be among you here. Today our country is at peace. We are fortunate, indeed. But the enemies of democracy and freedom never sleep. Let us remember Hungary, Czechoslavakia, Poland, and Afghanistan—and all others who long to be free. The pursuit of freedom is difficult, and protecting it takes constant vigilence.

Let us remember and rejoice in ideals upon which our country is built, in which we believe, and for which you have fought.

Freedom and liberty are great gifts, and they are cherished by us all. It is those of you who have helped secure these priceless gifts who deserve to be honored. You have our profound respect, and our deepest thanks.

Let me close on a more personal note. I was just short of two years old on V.E. Day. Those of you who fought that terrible war allowed me and my entire generation to grow up in freedom—perhaps to grow up at all.

We owe you the highest debt of all, the debt of preserving our society and our liberty.

Now I have the honor of serving my nation and my district as Member of the United States Congress. No one could ask for a more challenging or rewarding form of public service. In discharging my oath of office, I do so with deep gratitude and respect for each of you, who have helped insure that all we believe in can survive.

More Americans alive today were born after the heroic and noble deeds of our soldiers in World War II were completed. For too many Americans, World War II is an historical event, inadequately understood or appreciated.

Forty years is a long time in each of our lives, but only a flicker in the history of civilization. Yet, it is well to remember that our civilization, certainly our nation and all we hold dear, was preserved by those of you who insured our victory in 1945.

It is a story which can never be forgotten and its participants can never be given too much gratitude.

And so, it is with great respect and gratitude that I join you today and say to all our veterans: thank you; and to recall a job brilliantly done.●

INTRODUCTION OF THE EVEN START ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. GOODLING. Mr. Speaker, I would like to take this opportunity to describe the Even Start Act which I am introducing today. This bill would establish a pilot program to develop methods for parents in adult literacy programs to acquire the skills necessary to work in the home with their children. This legislation is designed to use existing funds and would thus require no additional spending.

Without a doubt, we are currently in a period of educational soul searching and reform. The transformed educational system that we are seeing created will be stronger and more effective than what existed prior to this examination.

The fact is that we simply must improve the way we educate students of all ages. To not do so puts our Nation at risk in terms of economic development, national security, and personal freedom.

The high rates of early school failure, school dropouts, adult illiteracy, and joblessness among certain subgroups of the population are symptoms of serious trouble in this country.

The bill I have introduced, the Even Start Act, is designed to address these problems through a combination of proven approaches offered in a new format.

A consensus has developed among educational researchers, professional educators, and policymakers that early childhood education programs are a powerful intervention in the lives of students likely to suffer from school failure. Evaluations have demonstrated their effectiveness in preventing school failure and dropping out and improving later life chances.

In addition, research has demonstrated that constructive parental involvement can have beneficial effects on the learning outcomes of children.

The Even Start Act would bring these two principles together by helping parents to acquire specific skills to become partners in the education of their children. More specifically, adult basic education would cooperate with chapter 1 remedial education programs to develop innovative approaches to working with adults and children. The first goal of the program would be the training of adults in basic literacy skills. Once this goal was attained, instruction involving the parent working directly with the child would take place. To participate in this program adults would have to be eligible for participation in an ABE Program and have a child aged 4 or 5.

This bill does not propose a specific structure for how these services would be delivered. Instead applicants are encouraged to design innovative and educationally sound proposals to attain the goals specified in the act. Proposals would be chosen on a competitive basis by a review panel appointed by the Secretary. Three programs would be selected for funding, two from urban settings and one from a rural area.

The value of a small program such as this is its ability to demonstrate new ways of achieving successful results. The evaluation and dissemination requirements in the bill ensure that we will know what was done, with what effects, and then be able to share this knowledge through established dissemination mechanisms.

Chapter 1 and ABE have both been successful programs in their own right. The legislation described here attempts to build from their efforts to make even greater gains in the education of both adults and their children. Given the restraint on new spending recognized by a majority of Congress, it is incumbent upon us to look at already existing funds for new approaches to lingering problems. Even Start demonstration projects would be funded by setting aside a small amount of future chapter 1 and ABE appropriations for this purpose.

I feel it is appropriate that this bill is being introduced during the 20th anniversary of the declaration of the war on poverty. From the start of this war, education was to be the major weapon. Many of the problems that existed in the 1960's are still with us today. We cannot be satisfied with only maintaining what has been done in the past. The legislation I have introduced is a product of what has been learned from the important educational efforts of the last two decades and an attempt to carry them even further into the future.●

REPLACEMENT TRAINING VESSEL FUND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. BIAGGI. Mr. Speaker, I have been concerned over the need to provide for the building or acquisition of modern training vessels to replace existing training vessels at the State maritime academies. The Maritime Administration has been charged with the responsibility for the education and training of individuals capable of providing for the safe and efficient operation of our merchant marine. Yet, it has not developed any type of long-range plans to replace the existing, aging, and obsolete State training vessels.

Last year, Congress was able to make a start in this direction by appropriating $8.5 million as part of the supplemental appropriation bill of 1984 [Public Law 98-396] to replace the training vessel of the State University of New York Maritime College. The administration, on the other hand, requested deferral of this $8.5 million to defray other operations and training costs, claiming that is cannot find a suitable vessel that can be acquired and converted with these funds. I believe the funds should be used for the building or acquisition of modern training vessels within the next few years. There is a reasonable expectation that the administration's request to defer the $8.5 million of budget authority will be denied when the Appropriation Committee favorably endorses the action of the Subcommittee on Commerce, Justice, State, and the Judiciary.

This legislation amends the Maritime Education and Training Act of 1980. It requires the Secretary of Transportation to maintain a replacement training vessel fund for the building or acquisition of modern training vessels to replace, within 10 years, existing training vessels. It also provides for crediting to the fund the $8.5 million that has already been appropriated, and makes provisions for future authorizations and appropriations.

The authorization for Federal assistance in providing training vessels for the State maritime academies originated with enactment of the Merchant Marine Act of 1936 and was continued in the Maritime Education and Training Act. With the possible exception of the recent replacement vessel for the Massachusetts training vessel, the *Bay State*, which suffered a total constructive loss as the result of an engine room fire, the remaining four training vessels are totally inadequate and do not in any way represent the equipment that is currently in use in the merchant marine. These vessels are the *Golden Bear* [California], built in 1939; the *Texas Clipper* [Texas], built in 1944; the *Empire State* [New York], built in 1952; and the *State of Maine* [Maine], also built in 1952. The oldest is 46 years old, and the newest is 33 years old.

Their maintenance has become more expensive and difficult with each passing year. Some repair parts are becoming nonexistent. Soon, another $2.5 million in unplanned expenditures will be spent on repairing the boilers of the *Empire State*. These vessels are powered by old and fuel-inefficient steam plants that are rapidly going out of worldwide use in favor of diesel propulsion. They utilize vintage direct-current equipment [instead of alternating current]; equipment that fewer and fewer companies manufacture;

equipment that is nearly impossible to obtain.

These training vessels are marginal at best. Each year presents a new dilemma in their ability to meet minimal Coast Guard standards for safety. These vessels are poor representatives of this great Nation when they visit foreign ports or when visited by worldwide maritime figures. I cannot help but note that some Third World countries have modern training vessels and equipment while we have to struggle with vessels and equipment that have been declared obsolete.

Although these vessels can now be used for troop transport in time of national emergency and are maintained in a 20-day readiness state, they leave much to be desired. New training vessel configurations could be developed to provide for rapid troopship conversion. This has the potential for being both economical and beneficial to the defense planners as they fund the moderization of the Ready Reserve Fleet and, thereby, enhance our sealift capacity.

I believe this legislation to be cost-effective and in the national interest. I, therefore, urge your support in seeing to its enactment.●

CULTURAL PROPERTY REPOSE ACT OF 1985

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. GEPHARDT. Mr. Speaker, recently I and a number of our colleagues introduced H.R. 2389, the Cultural Property Repose Act of 1985. The purpose of this legislation is to free the owners of cultural property and art work from the threat of civil suit by foreign governments.

Museums and private collectors across the country who have acquired works of art legally, in good faith, and for legitimate educational and aesthetic purposes are now at risk of having their property expropriated through civil suits by foreign governments.

This treat exists because we have no Federal statute of limitation barring such suits. Under many of our State laws, the limitation period for civil claims by foreign governments starts on the date the property is demanded, rather than the date the property was brought into the country. This allows foreign governments to sue for property acquired in the distant past.

Such suits are actually taking place. The Romanian Government recently claimed a painting by El Greco from the Kimbell Art Museum in Fort Worth, TX. The Government of Peru is claiming title to all pre-Columbian artifacts from that region, no matter how long they have been in the United States.

Foreign nations clearly have a right to protect and preserve cultural and art items they consider part of their heritage. This bill neither questions the legitimacy of cultural self-definition by nations nor condones or legalizes thievery of cultural property.

However, museums clearly have a valid and important function to perform in bringing the culture of other nations to visitors to their exhibits. Collectors, museums or individuals, also clearly have a right to acquire items in other countries legally and in good faith, without fear of subsequent seizure by the government of the country of origin. Our bill is designed to protect that right.

The issue is one of fairness. Other countries have statutes of limitation barring suits by the U.S. Government. Yet our collectors remain subject to the seizure of property that they acquired legally and in good faith.

The Cultural Property Repose Act of 1985 sets a timetable for suits by foreign governments for cultural property. It bars suits if the property has been in the United States 5 years prior to enactment. It stipulates that property held in museums would be free from suit if it is displayed or discussed in museum literature for 2 years after enactment. Private collectors would be free from suit if their property is publicly exhibited or discussed for 3 out of 5 years after enactment.

Our bill is a substantially unchanged version of H.R. 5924, introduced last session by our late colleague Gillis Long. It complements Public Law 97-446, which implemented the UNESCO Convention on the Means of Prohibiting the Illicit Import, Export, and Transfer of Ownership of Cultural Property. Under Public Law 97-446, the U.S. Government and foreign governments may agree on the formal designation of significant items and categories of cultural property; this designation then imposes import restrictions to curtail illicit international trade in designated items. The law provides for seizure and return of objects imported in violation of those restrictions after its enactment, subject to a sliding scale of repose periods, ranging from 3 to 20 years, depending upon the likelihood that interested parties could determine the item's whereabouts through proper investigation.

These provisions are fair and necessary. The problem is that Public Law 97-446 does not apply to items exported before the date of designation by the governments, nor to undesignated items, nor to any form of action other than a suit by the United States to enforce the import restrictions.

The Cultural Property Repose Act of 1985 is designed to fill these gaps. It covers all forms of cultural property as defined in the UNESCO Convention, regardless of designation. It applies to all items presently located in the United States. It applies to all civil litigation.

The purpose of H.R. 2389, as is the purpose of Public Law 97-446, is to discourage illegal trade in cultural property while establishing proper protection of long-established rights to items held in the United States legitimately.

Mr. Speaker, I insert a section-by-section analysis in the RECORD:

SECTION-BY-SECTION ANALYSIS

The bill would add a new chapter 101 to Title 28 of the United States Code: "Repose for certain items of archeological and ethnological material and cultural property."

Section 1641 of Title 28 establishes a uniform statute of limitations applicable in all suits brought in courts in the United States by foreign sovereigns claiming ownership of an item of cultural property, preempting any contrary State Law.

Subsection (a)(1) applies to cultural property that was imported into the United States five years or more prior to the date of enactment and bars suits by foreign sovereigns, their assignees and successors in interest, to recover damages or possession of such property. Subsections (a)(2)-(a)(4) establish a sliding scale of repose periods that will apply after date of enactment to items imported into the United States before or after the date of enactment, depending upon the nature of the holding in the United States.

Subsection (a)(2) applies to museums or institutions and allows repose after two years for items or cultural property held by such institutions if, for that period, the museum or institution has exhibited the item or has made knowledge of it available through publications, cataloguing or otherwise.

Subsection (a)(3) applies to any holder of cultural property and establishes repose where for three out of five years the item is publicly exhibited or publication is otherwise made that the item of cultural property is being held here.

Subsection (a)(4) applies to any holder of cultural property and allows repose after ten years unless a foreign state can establish that the holder acquired the property with actual knowledge that it had been removed from the possession of the country of origin in violation of the law of that country.

Subsection (b) of the new section 1641 of Title 28 applies only to items to which the restrictions of Public Law 97-446 apply by virtue of designation or emergency Presidential action, and for them establishes an exception to the general rules of subsection (a). For those designated items, the bill allows repose from civil suits by foreign nations on precisely the same conditions and after the same periods as prescribed in Public Law 97-446 for violations of that law's import restrictions.

Subsection (c)(1) defines the items of cultural property covered by the bill to have the same meaning as under the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property.

Subsection (c)(2) defines "foreign state" consistently with the rest of Title 28 of the United States Code.

Section 3 of the bill establishes the effective date and makes the provisions of the

bill applicable to any proceeding that is pending or initiated after enactment.●

VETERANS HEALTH CARE BUDGET CANNOT BE REDUCED FURTHER

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. MONTGOMERY. Mr. Speaker, next week the House may be making major decisions on the budget for fiscal year 1986. Many Federal programs will be affected. The decisions we must make will not be easy. We all have different priorities.

A very high priority of mine is veterans health care. I want my colleagues to fully understand the impact of any budget reductions in funds to operate the VA's health care system. Who is better able to relate the problems in the field than the people in the field?

According to the chiefs of staff at VA hospitals nationwide who responded to a recent survey, inadequate budgets are already taking their toll. More cuts in the budget will mean longer waiting lists, the turning away of certain non-service-connected veterans, and delays in many surgical procedures.

There follows a report from the chief of staff at the VA Medical Center in West Roxbury, MA:

VETERANS' ADMINISTRATION
MEDICAL CENTER,
Brockton and West Roxbury, MA,
January 24, 1985.

HOWARD H. GREEN, M.D.,
Chief of Staff (II), Veterans' Administration Medical Center, White River Junction, VT.

DEAR DR. HOWIE GREEN: This is in response to your January 2, 1985 letter about the universal problem of increasing shortages of funds to continue operating VA Medical Centers.

A. Size of Hospital: Operating Hospital Beds, 997; Nursing Home Care Unit Beds, 100; Total Operating Beds, 1097; Authorized Hospital Beds, 1080; Nursing Home Care Unit Beds, 100; Total Authorized Beds, 1180.

B. Affiliated with Harvard Medical School.

C. Projected Dollar Deficit as of January 1, 1985: We project no dollar deficit for this Medical Center. This is no reflection of affluence, but simply that we continually adjust our personal service and "All Other" dollars to reflect funding. There is no "base line year" which is felt to be illustrative of full funding that we would use to project a dollar deficit; rather, for many years we have been scaling down clinical and administrative activities as necessary to stay within budget.

D. Impact of Dollar Deficit:

1. Personnel: Inpatient staffing in professional services has remained approximately constant over the last several years. Though the rate of patients treated is also constant, a decreasing average length of stay, coupled with an increase in the complexity and severity of illness has resulted in an increasing workload on a sparse and unchanging staff. There have been dramatic difficulties with the Nursing Service staffing on several psychiatry wards and some SCI wards as well as the nursing support of the operating room and all intensive care areas. Some of the workload has been absorbed by increasing involvement of residents in both in and outpatient settings, as well as the hiring of more physician assistants and nurse practitioners. Professional support services such as Laboratory, Radiology and Respiratory Therapy are hard pressed to meet regular tour responsibilities, and at the Brockton Division we are unable to provide 24 hour service in any of those areas. Waits for General Medical Clinic average approximately two months for new patients and for certain subspecialties such as Orthopaedics and Dermatology, the wait can be almost six months.

2. Supplies: It is this area in which funding deficits are most dramatically experienced. For 1985 we budgeted all control points based on recurring funds for 1984, and predictably, almost every control point for both administrative and clinical services is over budget at the close of the first quarter. Since it is unwise to plan on the availability of drop money in the fourth quarter, we have initiated steps to curtail surgery, catheterizations and the prescriptions of drugs for outpatients. Such areas such as oncology, orthopaedic surgery, podiatry, optometry, prosthetics, and general medical clinic for non-service connected veterans are coming under increasing scrutiny.

3. Equipment: In this area we are the least severely hampered by budget shortfalls. However, much of our equipment is aging and requires frequent repairs.

4. Backlog of Patient Surgery: There are no specific statistics kept in this area. Cardiac surgery has a varying waiting list of one to three months. The other surgical sections often require waits for elective surgery of two to four months, including orthopaedics and urology.

E. Solutions We Have Devised: We have devised no obviously effective solution to this situation other than the fall back position of restricting access to care of the non-service-connected veteran, which we find difficult to accept. Rather, we have focused on ways to become more efficient without reducing services. To this end we have planned, or actually taken, the following steps:

(1) Pharmacy and Therapeutics Committee has made and continues to make marked reductions in the availability of many types of agents, including reductions in the numbers of antibiotics, antacids, cardiac drugs, sedatives and over-the-counter drugs.

(2) The Infectious Disease Section has been required to monitor and restrict the use of all expensive antibiotics including third generation cephalosporins. Constant physician education to prescribe less expensive or generic drugs.

(3) The Ambulatory Care Service is attempting to limit the number and types of prescriptions utilized in the care of outpatients.

(4) Severe curtailment of all fee for service tests or therapies.

(5) An extensive effort is being made to determine the cost of various tests and procedures and to hold bed section and ambulatory service chiefs responsible for these costs. Elimination of routine x-rays, skull x-rays without signs of symptoms, standing orders and routine lab tests.

In the long run, funding reductions will lead to service cuts. For the time being, cost accounting methods, formulary restrictions, physician education, and other such initiatives can help render the delivery of care more efficient, but can obviously not substitute for adequate funding. Whenever funding becomes inadequate to carry out our mission, we will cut services rather than compromise the quality of the patient care services we deliver.

Sincerely yours,

ERNEST M. BARSAMIAN, M.D.,
Chief of Staff.●

THE FRAUDULENT YOUTH EMPLOYMENT PRACTICES ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. WYDEN. Mr. Speaker, I rise today to introduce a bill that will help put a stop to a silent national scandal: the abuse of young people through employment in fraudulent sales schemes.

This legislation, the Fraudulent Youth Employment Practices Act, establishes an information clearinghouse on fraudulent youth employment practices within the Federal Bureau of Investigation's National Crime Information Center. It also directs the U.S. Department of Justice to vigorously investigate and prosecute violations of Federal criminal law discovered through this clearinghouse.

After consulting with a wide range of law enforcement officials, it became abundantly clear that there is a great need for a national information center so that these officials can monitor the activities of unscrupulous door-to-door selling groups.

Although we believe that the vast majority of door-to-door sellers are wholly honorable and reputable—we know them in every community as Scouts, Camp Fire, little leaguers and many others—there are groups in this country that are breaking the law and exploiting our young people.

Earlene Williams, the national director of Parent Watch, estimates there are more than 200 questionable door-to-door sales companies operating across the country. They prey on the desires of young people to get a job, to travel to new places, and to make money. They twist these normal desires to their advantage and in the process threaten the safety of the youths in their employ and defraud consumers.

Here's how these companies—which can be peddling anything from magazine subscriptions to chemical cleaners—usually work. They will advertise jobs that promise high pay and the adventure of travel. They will then conduct interviews and tell the prospective employee—usually between 16 and 24 years old—that they can have the job but they have to leave right away.

Some groups which specialize in selling candy, hire children between the ages of 8 and 15. While many candy-selling groups do not take children across State lines, or on overnight trips, they violate virtually every child labor law in the book. They say there's no time to talk to parents. The only contact made with parents is usually in the form of a letter from the operator of the company to tell them, that because of the travel itinerary, all mail to their child will have to go through a central location.

After that, the unfortunate young people who have decided to sign on to these crews are subject to a vast array of threats to their health and well-being. They are taken from familiar surroundings, work 14 to 16 hours a day, sleep in crowded conditions, are subject to humiliation and physical abuse at the hands of the sales crew leaders and are transported in unsafe vehicles. In one case, five young people perished in a plane crash in Alabama caused by overloading and poor maintenance, according to Federal Aviation Administration investigators.

And these crews are not limited to any one part of the country either. Many of my colleagues may have had these kids come to their doors. Or they may have been strolling down Pennsylvania Avenue after a late session and seen youngsters as young as 8 years old out on the street corner after 10 p.m. trying to sell candy.

One would think it would be rather simple to crack down on these groups both because of their obvious abuse of young people and because of the fraudulent sales practices—such as deceptive claims, faulty merchandise, and violations of weights and standards rules—they employ. But these groups are extremely mobile. It's not unusual for them to disappear from a State literally overnight when local law enforcement authorities catch wind of them. It's also not unheard of for these groups to be put out of business one day and resume business the next under a different name.

That's why the local officials contacted during our research have expressed the need for a central source of information to more effectively monitor sales crew activity in other States so they can be better prepared in the event their own State is subjected to these fraudulent groups. An information clearinghouse such as the one created by this bill would enable States to follow up on investigations that will lead to prosecution.

The National Crime Information Center is an effective law enforcement tool that is already in operation. The creation of a National Clearinghouse on Fraudulent Youth Employment Practices would not require any new bureau, agency, or department. We simply build on an existing resource. Furthermore, NCIC is mindful of the needs of local law enforcement and its policy advisory board regularly meets to evaluate these needs and the effectiveness of the data bank files.

Once the clearinghouse is established, the 50,000 law enforcement agencies that participate in the NCIC system would be able to contribute and to receive information on these fraudulent groups. The value of this approach is that this information can be retrieved almost immediately from the NCIC files. For example, if a law enforcement officer spotted a vehicle hauling a group of youngsters around selling products door to door, the officer could simply contact the police dispatcher with the license plate number of the vehicle and the dispatcher would punch that number into a computer terminal connected to the NCIC and instantly get a readout on any fraudulent activities that the owner of that vehicle has been involved in. In addition, any State or local official authorized to participate in the NCIC system could frequently monitor the clearinghouse to get information on these groups.

I firmly believe that with a little information available in a timely fashion to the right people, we can put these dangerous and unscrupulous operators out of business. And, most importantly, we can take a step toward protecting our youth from dangerous employment practices. I urge my colleagues to join me in this effort.

H.R. 2544

A BILL To direct the Attorney General to establish a clearinghouse for information relating to criminal practices in connection with certain employment of youth, to require active Federal investigation and prosecution of such practices in violation of Federal law, and for other purposes

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

SECTION 1. SHORT TITLE.

This Act may be cited as "The Fraudulent Youth Employment Practices Act."

SECTION 2. CLEARINGHOUSE.

The Attorney General shall establish and maintain in the Department of Justice the National Clearinghouse on Fraudulent Youth Employment Practices (hereinafter in this Act referred to as the "Clearinghouse"). The Clearinghouse [utilizing the resources of the Department of Justice (including identification records and information acquired under section 534 of title 28, United States Code)] shall provide technical assistance to non-Federal governmental entities in the United States—

(1) to enable such entities to identify and collect data on fraudulent youth employment practices in the solicitation of magazine subscriptions and the sales of products;

(2) to assist in the reporting of such data to the Clearinghouse; and

(3) to assist such entities in the use of data disseminated by the Clearinghouse to obtain criminal prosecutions.

SEC. 3. FEDERAL PROSECUTIONS.

If the Department of Justice becomes aware of a violation of Federal criminal law through the data reported to the Clearinghouse, it shall be the duty of appropriate officials in the Department of Justice vigorously to investigate and prosecute such violation.●

REMARKS BY ADM. JAMES D. WATKINS, CHIEF OF NAVAL OPERATIONS, ON STRATEGIC SEALIFT

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. ADDABBO. Mr. Speaker, I would like to bring to the attention of my colleagues a recent speech delivered by Adm. James D. Watkins to the National Security Industrial Association Conference on Amphibious Warfare/Strategic Sealift requirements. In it, he discusses how our paucity of strategic sealift could cause our national economy and our industrial base to become hostage to foreign flag shipping—what we're doing about this situation, and what needs to be accomplished.

The following is Admiral Watkins' speech:

THE TIME IS NOW, WE CAN WAIT NO LONGER

(Remarks by Adm. James D. Watkins, Chief of Naval Operations, National Security Industrial Association, Sixth Annual Conference on Amphibious Warfare/Strategic Sealift Requirements)

A well-known writer on military affairs once rhetorically asked—"What need has the United States of sea power? Her commerce is even now carried by others; why should her people desire that which, if possessed, must be defended at great costs?"

This writer answered his own question by saying—"so far as this question is economical, it is outside the scope of my work; but conditions which may entail suffering and loss on the country by war are directly pertinent to it."

While that may sound like debate surrounding the health and welfare of, and requirement for, a strong and ready navy and merchant marine today, that actually was written by Admiral Alfred Thayer Mahan almost one hundred years ago.

It is interesting to note—and somewhat apocalyptic—what Mahan believed to be one of the quintessential elements of sea power—and that is a strong national trade carried in a ready merchant marine. A nation's sea power, then, is not one dimensional, is not measured only by counting ships of war. It is rather a combination of various aspects, ranging from shipyard construction and repair capabilities to a capable navy and merchant marine.

This was a lesson we learned from Mahan and proved in action during World War II. In fact, as we entered the 1950s, America's Navy and Merchant fleets were the envy of the world. That was a golden era—when we had more tonnage underway than any other nation.

But, we forgot the warnings of Mahan, and, for a number of reasons—ranging from economic to political—we allowed our Nation's sea power to wither and almost die. By the end of the 1970's, we had that infa-

mous one-and-a-half-ocean Navy with a three-ocean commitment, and a merchant marine which had all but disappeared from the seas.

With the 1980s, and the Reagan administration, came dramatic new awareness in the need for American sea power. A commitment was made to the American people—they would have a 600-ship Navy on the seas by decade's end. But sea power, more than combatant ships alone, is having a strong merchant marine as well. And, herculean efforts are still needed to correct deficiencies in our U.S. flag fleet. I don't have to remind this audience that our merchant marine has fallen from first in the world in 1950 to tenth place today.

Can we allow this vital arm of sea power to atrophy by default any further? I say, no. If we do, our Nation could easily be crippled by a determined foe, and they know it. Our merchant fleet must not only provide efficient, economical and profitable commercial services in peacetime, but must also be ready to carry men, material and supplies as a naval auxiliary force in times of emergency. A well-sized U.S. flag fleet is an essential element of deterrence for a maritime nation.

In fact, it is estimated that more than one thousand merchant shiploads per month would be required to reinforce and resupply Europe during the first 180 days of a conflict. Since our national strategy of forward defense implies that armed conflict will usually occur far from our shores, strategic sealift capabilities are absolutely essential to our defense.

Winston Churchill wrote that "victory is the beautiful, bright colored flower; transport is the stem without which it could never have blossomed." This was demonstrated during the Falkland Islands campaign—when Great Britain had to organize every sealift resource available to support an 8,500-mile logistics pipeline . . . use every ship they could get underway including the QE2.

The British were successful. They kept logistics lifelines operating, but just barely. This single-theater operation was barely supported with a merchant fleet twice the size of our own, and without excessive losses from hostile action.

But, if we had to confront a threat in various oceans and regions, would we be assured of victory with our merchant marine of today?

Answering that question brings the need for a strong maritime fleet into sharp focus: Today, our sealift studies show that it would essentially take every single U.S. flag merchant ship—and most of those of our allies—just to support our forward deployed forces in a large-scale conflict. And, that doesn't even include any additional ships for attrition.

The result is that our national economy and industrial base would be hostage to foreign flag shipping for vital services and import of natural resources. This is not a comfortable position for an insular nation . . . particularly one with globe-spanning commitments and dedicated to the defense of the free world. As Mahan warned, "the distance which separates (us) from other great powers, in one way a protection, is also a snare."

So, what I am talking about is not just a Navy problem . . . isn't just a merchant marine industry, union or shipbuilder's problem . . . isn't just a problem for this administration. It is a national problem. Our shriveled merchant marine arm of American sea power is a problem not only of tremendous economic and commerical proportions, but of significant national security implication as well. And, the only people who have any reason to breathe easy are our potential enemies.

Look at the facts—while our merchant seagoing fleet has dwindled, the Soviet fleet has grown to more than 2,500 ships. The Soviet merchant marine that was the twenty-first in size in 1950, is number two in size today.

As the current edition of Soviet military power points out, "the growth of the Soviet merchant marine . . . has been carefully directed to create a fleet that can perform a commercially competitive peacetime mission and satisfy military logistics requirements in crisis or war."

It also is very clear: Russian naval and party leaders thoroughly understand the importance of a strong merchant fleet. The head of the Soviet navy, Admiral Gorshkov, has said, "the seapower of the Soviet Union depends on all its means of exploiting the world's oceans . . . transport ships and naval forces . . . and on serving its national interests by combining them properly." These merchant ships are commanded largely by naval reserve officers and routinely participate in major naval exercises. In fact, the operations of the merchant marine are closely coordinated with naval requirements from the Moscow level. Their merchant fleet is a chameleon which quickly changes color from benign merchant ships to combat-supporting ships.

Maybe that is one of the few advantages of a centralized state system, where policies are dictated, competition wiped away, and complete control administered. But, I must admit that I believe in our system of competition and innovation. And, if we believe in this Nation's ability to overcome obstacles when we put our hearts into the task, and our collective wits to the problem, that is what we need right now. But, you say, "What has the Navy done to help tackle this National tragedy of potentially fatal proportions?" I say, "Quite a bit!"

I am first to admit that we in the Navy underplayed the magnitude of our problem, and the risks it entailed, and for too many years. Frankly, strategic sealift was a "back seat priority" because we were living under the narcotic of detente and false expectations that Soviet behavior would somehow magically change. So, our inability to support the Army's transport and logistic requirements was the result. To a great extent, however, these days are fortunately passing in our wake astern. Now, with the narcotic worn off, we are urgently doing everything we can to rebuild this Nation's strategic sealift.

In March of 1984, we formally recognized strategic sealift as the third major function of the Navy along with sea control and power projection. This reemphasized the increasing importance of strategic sealift to our overall military and deterrent capabilities.

In the summer of 1984, we signed an agreement with the Army to enhance our joint-interservice responsibilities in the area of sealift with the objective to provide a smooth flow of materials to support our forces worldwide.

We backed up words with programs, including the construction and conversion of 75 sealift ships. In addition to these ships, our shipyards are upgrading more than 70 additional ships to go into our Ready Reserve force. In the last four budgets, we put more dollars into sealift than all the budgets since World War II combined. Here is a brief status report of our most noteworthy achievements:

The near-term prepositioning force was established in 1980 as a quick and efficient means of achieving dedicated sealift in the Indian Ocean, a region some 11,000 miles removed from our Nation. Today, these ships are in the Indian Ocean, Pacific and Mediterranean. They are capable of supporting a marine brigade, plus material and ammunition for Army and Air Force units.

We developed a follow-on program of maritime prepositioning ships. There will be 13 of these specially configured ships on line by this time next year. They will be loaded out with a full range of cargo, from ammunition and artillery to water and rations, ready to support three marine brigades for 30 days.

In order to quickly move large volumes of military equipment for the Army to distant areas, we also started converting eight large containerships into what we now call fast sealift ships . . . these former "SL-7s"—acquired by the Navy in 1981—will all be on line in their newly converted form by next year.

We didn't stop there—we started an ambitious expansion of our Ready Reserve force, our pool of Government-owned cargo ships that can be quickly activated. During 1984, the Ready Reserve force was expanded from 32 to 55 ships. We expect to increase to more than 100 ships in the next few years, forced to do so again because of a greater-than-expected decrease in projected U.S. Fleet numbers by decade's end.

Other programs to strengthen our sealift capabilities range from construction of new tankers and conversion of other ships into hospital ships to developing crane ships capable of unloading containerships in even the most primitive areas.

Maybe even more important than these initiatives is the spirit which we are applying to tackling this problem. For we don't look at the survival of the merchant marine as a "nice to have" or "somebody else's problem"—we look at it as a "must solve" by pooling national talents.

Typical is our decision to support American flag carriers whenever we can. We have even laid-up the Navy's own military sealift command ships to ensure, whenever possible, that our cargo travels in commercial bottoms. In 1980, we were running about 60 MSC ships on a regular basis in the Atlantic and Pacific in support of our Navy. Today, that number has been slashed about in half with a resultant increase in jobs for commercial carriers.

The Navy's military sealift command also is actively pursuing opportunities for contract operation of many of its civilian manned ships. Over one-half of its 126-ship force is already manned by contract crews, employing more than 1,700 mariners. This number will continue to grow as strategic sealift ships are delivered from U.S. shipyards. In addition, MSC is evaluating feasibility of contracting operation of up to 29 additional special mission ships now in the force.

Today, sealift is one of the fastest growth areas in the Navy budget. Our new awareness of sealift can be seen as we pump $20 billion directly into the maritime industry for new ship construction, ship conversions, charter programs, operations and maintenance. While I have repeatedly testified about the necessity of a strong merchant

marine on Capitol Hill, I think our actions are proof positive of our commitment.

But, the Navy cannot bear the total responsibility for revitalizing the maritime industry. Shipyards, labor unions and ship operators all must demonstrate their awareness and determination. There are no quick fixes or easy injections of subsidies which can correct these problems. The Navy's effort, while significant, is not enough. It is a modest injection where a transfusion is needed.

I realize many of you represent areas which have been hard hit by problems in our merchant marine. I realize you already have taken your cause up with our elected officials. Still, this is not enough. We must go further—together. We must use every means at our disposal, not as a way to push single interests, but as methods to push for the national interest. For this Nation needs its own flagships in both peace and war. Our seapower depends on it. I see the congressionally-mandated Maritime Commission as an unique opportunity to put our combined efforts together and start pulling on the same set of oars. Secretary Lehman has been designated Director of the Commission, and we in the Navy are very supportive of this process. I hope you are onboard too, so we can investigate means to correct current deficiencies.

My challenge to you today is to help us seek alternatives that are in keeping with our basic policy of reliance upon the U.S. merchant marine . . . alternatives that strengthen the merchant marine industry; return more shipping to U.S. flag; and provide these assets at roughly equal cost to what we are spending on strategic sealift today.

There is an abundance of cargo carried for use by this Nation and exported to other Nations. We must carry more of this cargo. We must learn to compete better on the real-world market place today to ensure survival of our merchant marine tomorrow. Since there will always be a differential between our wages and costs, and those of others with whom we are competing, we must get smarter, more efficient and use American ingenuity.

I believe this can be done by using our technological know-how and business acumen to increase efficiency. I am not here to advise on economic and business aspects of such undertakings, but I am here to say that if the merchant marine can compete better in time of peace, our sea power will develop the strength to compete better during time of conflict, against even a determined foe. I am here to say the U.S. Navy is in this with you—and is determined to do everything in its power to help restore our merchant marine to the role it used to play in this Nation's sea power.

This is our challenge. It comes from Mahan's work of 1890: "If time be, as is everywhere admitted, a supreme factor in war, it behooves countries whose genius is essentially not military, whose people, like all free people, object to paying for large military establishments, to see to it that they are at least strong enough to gain the time necessary to turn the spirit and capacity of their subjects into new activities which war calls for."

The time is now for developing a strong merchant marine. Time is now for countering a threat which is significant and growing. The time is now for enhancing effectiveness of our forward-deployed strategy which heavily depends upon a strong merchant marine.

We have taken the first steps back from the brink of only a few years ago. Now, if we work together, we can build the U.S. merchant fleet into a force strong enough to compete in a difficult business atmosphere; strong enough to ensure this Nation can support urgent national commitments and its mandate for "peace through strength."

Thank you very much.●

HARRIET P. HENRY: A PROMINENT MAINE JUDGE

HON. JOHN R. McKERNAN, JR.

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. McKERNAN. Mr. Speaker, it is with great honor that I take this opportunity to pay tribute to an accomplished public figure and pioneer, Judge Harriet P. Henry. When appointed district judge in 1973, she became the first female judge in Maine's long history. She has now set standards in the field and opened doors for the four other female judges who now serve with her in Maine.

An economics major at Smith College, her first job was in the Army's Office of the Quartermaster General in Washington, DC, as an economic analyst. She later transferred to the National Security Agency, working as an intelligence analyst. It was while working there that Mrs. Henry decided to take up law. She entered night school at George Washington University, and got her degree in 3½ years.

Four years after marrying Merton Henry, a fellow law student and now a prominent attorney, the couple moved to Portland, ME, in 1958, and she became involved in community activities. As a volunteer, she contributed to the community through her efforts on the Maine Status of Women Commission and as president of the Portland League of Women Voters.

While involved in these organizations, Henry also found time to author a four-volume report entitled "Maine Law Affecting Marine Resources", a landmark survey of 50 State agencies related to or affecting marine resources, sponsored by the University of Maine and the National Science Foundation. Later, she chaired the Joint Action Commission on University Goals and Directions for the University of Maine at Portland-Gorham.

In 1965, Mrs. Henry became a member of the Portland Housing Authority and, in 1973, became its chairperson. Later that year, Governor Curtis appointed her Maine's first female judge. She is currently active in several judicial organizations, including the Executive Committee of the National Conference of Special Court Judges, where she serves as editor of its newsletter.

There comes a time when old traditions must make way for progress. Harriett Henry not only proved that a female could be judge in Maine, but she showed that one's gender is not in the least a determining factor for success in law or any other profession. I ask my colleagues to join me in commending Judge Henry for this and her other noteworthy achievements.●

VETERANS' HEALTH CARE BUDGET CANNOT BE REDUCED FURTHER

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. MONTGOMERY. Mr. Speaker, next week the House may be making major decisions on the budget for fiscal year 1986. Many Federal programs will be affected. The decisions we must make will not be easy. We all have different priorities.

A very high priority of mine is veterans health care. I want my colleagues to fully understand the impact of any budget reductions in funds to operate the VA's health care system. Who is better able to relate the problems in the field than the people in the field?

According to the Chiefs of Staff at VA hospitals nationwide who responded to a recent survey, inadequate budgets are already taking their toll. More cuts in the budget will mean longer waiting lists, the turning away of certain non-service-connected veterans, and delays in many surgical procedures.

There follows a report from the Chief of Staff at the VA Medical Center in Fort Wayne, IN:

VETERANS' ADMINISTRATION
MEDICAL CENTER,
Fort Wayne, IN, January 24, 1985.

HOWARD H. GREEN, M.D.,
Chief of Staff (11), President, NAVACOS, VA Medical Center, White River Junction, VT.

DEAR DR. GREEN: I received your letter of inquiry dated January 2, 1985 this past Monday, January 21, 1985.

I shall answer the questions categorically:

(a) 230 beds.

(b) No.

(c) As of January 1, 1985, unknown.

(d) 1. Personnel.—It is extremely difficult to recruit virtually any professional individual at this hospital, since we cannot pay, e.g., the pharmacist, physical therapist, recreation therapist, etc., a wage comparable to those receive by the private hospitals in our particular area. As far as physicians are concered, it is extremely difficult to recruit those who are qualified since their ability to make more money in the private sector or in other areas of the non-private sector far exceeds what we pay at the VA, including the so-called "fringe benefits" we are eligible for.

2. Supplies.—We have a chronic lack of material since we do not have the funds to purchase needed items, e.g., oxygen, various forms of medication and drugs which should

be used in the latest therapeutic armamentarium by any active competent physician and/or hospital.

3. Equipment.—We lack an ultrasound, a CT-Scanner; we have been asking for a Gamma Camera for the last three years and it looks as if nothing is going to happen that will replace the current one which is obsolete. Every single hospital in this area is equipped with all of this equipment and more and we have to pay for their services on a contractual basis in order to afford our patients the ultimate in diagnostic and/or therapeutic modalities.

Further, in conjunction with this, we have to contract out for oncology and radiation therapy services since we do not have the facilities nor the personnel, nor can we recruit the personnel. If we could recruit, we don't have the equipment to use by qualified individuals.

4. Backlog of patient surgery.—Our only backlog at this point in time is with orthopedic patients whom we are not able to serve here, since we have no orthopedist, nor can we recruit one, apparently. They have to go to our tertiary unit (Indianapolis) which is 130 miles distance one way and they have difficulty in recruiting an orthopedic surgeon and/or department. As a result, it is at least a four or five month delay, except for an extreme emergency, for a patient with an orthopedic problem to be attended to.

The same holds for a cardiologist; the compensation in this system is so poor that we cannot compete with the private sector, particularly in these two areas.

(e) Contract out, basically.

(f) It would seem to me, medically and fiscally prudent to increase the compensation afforded the professional personnel in the VA system. The threat of a 5% cut in wages has a pervasive depressing aura, not only on the people who are already working in the system, but on those people whom we have recently interviewed who thought they might like to enter the VA medical system. They feel that if they enter with an assumption of certain benefits and wages that these benefits are liable to be reduced arbitrarily and capriciously.

I would like to suggest that we use a medical placement service, as any other private hospital does in obtaining or helping us obtain physicians and other personnel, i.e., recreation therapist, physical therapist, etc. It appears to me that the main block to this is the fact that we in the Federal system are not allowed to pay for the services of the medical placement agencies. Quite frankly, I think this is preposterous and negates what we can do constructively to improve the care and treatment of veterans to have higher quality physicians and ancillary personnel utilized in treating veterans.

Candidly, I think the money is there. I would suggest that the distribution of it has been in the wrong areas, i.e., millions and millions of dollars going to foreign aid, very little going to the treatment of our own veterans, who, in many instances, fought overseas to liberate the countries we are now supporting and have supported for the last 40 years.

Lastly, I think the concept of Resource Allocation has little basis in reality, is faulty, and is quite possibly unrealistic in operation. I consider this, however, the least of our problems.

Cordially,

ROBERT F. GREEN, M.D.,
Chief of Staff.●

WALTER PIUREK, THE MAYOR OF JOSLYN SQUARE

HON. BRUCE A. MORRISON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. MORRISON of Connecticut. Mr. Speaker, today I rise to pay tribute to Walter Piurek, "the mayor of Joslyn Square," in New Haven, CT, in my Third Congressional District. This Sunday, May 20, 1985, New Haven proudly honors Mr. Piurek on his 75th birthday.

Mr. Piurek has been a leading figure in New Haven for over 50 years. From 1938 until his retirement, his little restaurant at the corner of Humphrey and East Streets was a fixture on the New Haven scene, a popular gatherplace for politicians, businessmen, and sports fans. The restaurant has recently been renovated and will be rededicated during the Sunday birthday celebration.

Mr. Piurek served as a Polish interpreter at the old New Haven City Court and a State boxing inspector. He is a member of the St. Stanislaus Ushers Club, the St. Stanislaus Holy Name Society, the Tadeusz Kosciuszco Society Group No. 103, the Polish Roman Catholic Union of America, the Knights of Columbus San Salvador Council 4th degree, the John Barry Assembly, the Moose Club, and the St. Stanislaus Parish Council.

I am pleased to join with so many others in honoring Walter Piurek for his contributions to our community over five decades.●

PARTISAN POLITICS RESULT IN A PAT ON THE BACK FOR CHILE'S PINOCHET

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. BARNES. Mr. Speaker, 3 weeks ago the House voted down House Concurrent Resolution 52, a resolution calling for the restoration of democracy in Chile. It was quite obvious to everyone in this House why that resolution failed. It did not fail because Members on both sides of the aisle do not support a restoration of democracy in Chile, but rather as a result of partisan politics in this Chamber.

Immediately preceding the vote, Republican Members had made the declaration to vote "no" on all suspensions in retaliation for the decision to seat our colleague from Indiana. The resolution on Chile was their first opportunity to make their point.

Unfortunately, this particular "no" vote had more symbolic value than my colleagues may have bargained for. The political point was lost in Chile. Instead, the message was sent loudly and clearly that the U.S. Congress was not prepared to condemn the Government of Chile for its abhorrent human rights record, and its intransigence on moves toward a democracy opening. The reaction from government officials clearly shows how this vote was interpreted in Chile. Foreign Minister del Valle said:

> This is very good news. It shows the truth is gradually being learned in the United States.

Chilean Navy Commander Adm. Jose Toribio Merino reportedly expressed his satisfaction with the vote, saying that in his opinion this is proof that "Chile's image abroad is improving greatly."

This pat on the back that we have handed Chile's 12-year dictator has evidently proved to him that the United States really isn't paying attention; that while we focus on Nicaragua's human rights record, he is free to do as he likes. And he has. Last week, General Pinochet quietly extended the state of siege in Chile for another 3 months, giving him widespread powers ranging from the ability to send people into mass detention centers to closing Chile's borders. Since the initial imposition of the state of siege on November 4 of last year, 8,000 Chileans have been detained, more than 600 internally exiled, 6 publications have been closed down, and freedom of movement and assembly has been curtailed. These measures have been instituted, in Pinochet's words, "to safeguard democracy and liberty."

And this House has cheered him on.●

SPACE COMMERCIALIZATION

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. GORDON. Mr. Speaker, in the last few months, members of the House Subcommittee on Space Science and Applications have been focusing on the possibilities for space commercialization. Although I am new to this field, I have found the hearings and discussions intriguing. Because of the effect which space commercialization will have on our economy and our foreign policy, I believe that it is a matter which demands the attention of our entire Nation. I would like to recommend an interesting article which recently appeared in the Atlantic Monthly. Entitled "Business in Space," it explores the possibilities offered by this new economic frontier.

The author, David Osborne, compares the development of space to that of the American frontier a century ago. "Anyone who was sitting around

in 1840 thinking about this railway thing couldn't imagine a fraction of the economic potential that would eventually be realized by opening up the West."

In a cogent and readable manner. Osborne reviews both current and potential opportunities in space. An infant business, the space industry now generates about $23 billion a year. The first venture in space commercialization is already mature: satellite communications. Remote sensing satellites are a few years behind, but have the potential for use in a number of areas. Alreay they are being used for weather tracking, mining surveys, and crop forecasting.

Osborne believes, however that the real economic potential lies in manufacturing. He explains the advantages of processing in the near weightless, ultra-clean environment of space and lists a broad range of materials which are currenty being tested for production. Cost-effective manufacturing, he notes, will demand a cohesive system of space stations and orbiting platforms, as well as launch and repair services.

Indulging briefly in a look toward the next generation of innovations, Osborne writes about some of the ideas which may become reality by the next century. These concepts include nuclear waste disposal in space, mining operations on asteroids, and huge solar sails, driven by photons from the sun, for long space voyages.

In what I considered the most interesting section of the essay, Osborne discusses the role of Government in space commercialization. He analyzes the very real threat of foreign competition and critizes the U.S. Government's early efforts toward encouraging and shaping this pioneer industry. He weighs the pros and cons of an aggressive Federal intervention. This is done partly through a review of governmental interventions in recently developed technologies such as aviation, computers, and supersonic transport. He also looks at the arguments made by free market enthusiasts. In the end, Osborne recommends that we design a more coherent strategy to preserve U.S. leadership on this new frontier.

I found this a thought-provoking essay and one which should be of interest to Members of the House.●

KINGSTON RESIDENT HEADS JEWISH WAR VETERANS OF THE USA

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. KANJORSKI. Mr. Speaker, as we once again remember the valiant men and women who have sacrificed so much for our Nation through the service in the Armed Forces, I would like to bring to your attention an individual who has been a leader in providing assistance and support to the veterans of our Nation. Mr. Samuel Greenberg of Kingston, PA, has spent nearly 40 years working on behalf of our veterans through his work in community and veterans' projects.

Mr. Greenberg, a veteran of World War II, was elected on September 2, 1984, as national commander of the Jewish War Veterans of the USA. Previously, he served for 5 years as a member of the national executive committee and as national editor of the Jewish Veteran, the organization's national publication. He has held the positions of national public affairs officer, central district commander, Department of Pennsylvania commander, and commander of Wilkes-Barre, PA, Post. No. 212. He has also been a member of the foreign affairs committee, the veterans' cemetery committee, three special task force committees, the board of directors, and the JWV-USA National Memorial, Inc.

Although a leading member of the JWV, Samuel Greenberg has also participated actively in other veterans' groups in the community, such as the American Legion, the Veterans of Foreign Wars, and AMVETS. His other community activities have included: Chairman of the United Jewish Appeal, school board director for Temple Israel, member of the board of directors of the Greater Wyoming Valley Jewish Federation, board member of the Greater Wyoming Valley Jewish Community Center, and chairman of the Boy Scout Troop No. 32 Committee. Along with other concerned citizens, he formed the Joe Palooka Monument Committee to restore a vandalized statue saluting the fictional hero. In 1976, Mr. Greenberg received the Tapper Award from the Greater Wyoming Valley Jewish Community Center honoring him as "Man of the Year."

The owner of Arrow Steel Supply in Swoyersville, PA, Samuel Greenberg is also well known for his steel sculptures. A picture of Greenberg with one of these sculptures, a memorial to the Israeli athletes murdered at the 1972 Munich Olympics, is displayed in the Diaspora Museum in Tel Aviv.

Mr. Speaker, it is my pleasure to recognize Samuel Greenberg and the tremendous contributions he has made on behalf of all veterans, as well as the members of our community. I am proud to commend his years of tireless work to your attention today.●

UNDERMINING OF RURAL ELECTRIFICATION ADMINISTRATION SHORT-SIGHTED

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 7, 1985

● Mr. DORGAN of North Dakota. Mr. Speaker, it's a pleasure to salute the Rural Electrification Administration on its 50th birthday. REA has much to be proud of as we look back over the last half century. In 1935, only 10 percent of America's farms had electricity; now lines are strung to virtually every farm and ranch, no matter how rugged the terrain or how far to the nearest neighbor.

But as we note these successes, we cannot help but see the dark clouds on the horizon in front of us. The current administration has waged an all-out attack on the Rural Electrification Administration, most recently going so far as to call for its elimination by 1990. Even though Congress has fought each effort to undermine the REA, and restored most of the programs under attack, morale at the agency has been seriously eroded by the lack of support at the top.

A good example of how this has worked is the current debate over engineering standards. These standards, which set guidelines for the equipment used by rural electric systems, make good sense. Rural electric systems, with their wide spans and fewer poles, have special needs. Not every small co-op can afford its own engineer to select equipment for them. REA's engineering standards division helps with these decisions and insures that all systems are compatible.

Even though this work is done for the entire country with only six technical engineers, the current administration still wants to abolish the engineering standards division. When their intention to do so raised a number of questions, REA announced that it would conduct an objective study of the issue, using four REA employees. However, when this study recommended keeping the standards, REA ignored it and commissioned a new one. The second study also recommended keeping the standards, but REA is still trying to abolish them.

The administration's stubborn insistence to do away with the engineering standards division, even though it has been shown to save co-ops between 6 and 9 percent of their construction costs, clearly shows that their opposition to REA is philosophical, not financial.

This opposition is evidencing itself in other ways as well. Loan applications, even simple ones, take longer than necessary to process. There

seems to be a deliberate slow-down in effect.

The administration's attitude toward the Rural Electrification Administration is, in my judgment, extremely short-sighted. REA has been a major factor in fostering this country's tremendous agricultural productivity. Even though agriculture is currently struggling under a number of economic factors beyond its control, it is still our biggest earner of export dollars—dollars that are of critical importance to the economic health of this country.

So rural electricity is important to all of this country, not just to our farms and ranches. It is too bad the current administration just doesn't understand that.●

THE PLAINS CENTENNIAL

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. RAY. Mr. Speaker, this weekend, there will be a very special celebration in my district. Plains, GA, is hosting a centennial celebration commemorating their founding 100 years ago.

Although Plains is a small city, with a population of only 683, there are few Americans who aren't familiar with this town and with the people of the town.

Plains began as a small community, set up after the Federal authorities moved the Creek Indians when the Treaty of Washington was signed.

At first, Plains was known as The Plains of Dura. The Biblical plain of Dura near Babylon was where Nebuchadnezzar erected a golden idol. Around 1840, the town was relocated to its present site, which was at that time a wooded area owned by Mr. Carey Thomas Cox and Mr. Milton Hudson. When the town moved, the name was shortened to just Plains.

Throughout its history, Plains has been a thriving community. Although primarily a farming town, the city's business section has been the home of a number of different Georgia businesses through the years.

Of course, Mr. Speaker, Plains gained national prominence when one of her residents, Jimmy Carter, was elected our Nation's 39th President. Through him, we met the people of Plains and became familiar with the sights and lifestyle of the people of Plains and Sumter County.

President Carter personified for this country many of the beliefs and characteristics that are ingrained by life in a small town—the creed of an honest day's work for an honest dollar, neighborly concern and caring, belief in God, love and pride in America, and the importance of honesty and forthrightness.

Although the cities of America may be her "shining stars," it is the towns and communities that will always remain her heart. Throughout our history, many of our Nation's leaders have come from small towns, all across this country. In this environment, it seems the strength of character, the decency, and the Humanity so necessary in a good leader is strengthened and encouraged.

Just as President Carter's strength of character was developed in Plains, another famous Georgian, Charles Crisp, gained the same values of honesty and decency in a small town only 20 miles away.

Although born in England, Charles Crisp came to Georgia with his parents in 1845, while still an infant, and spent his youth in the small towns of Georgia. His family settled in Ellaville, which is very near Plains, and there he was taught the small town values that were to bring him to a leadership position in this country.

At only 16 years of age, Crisp was a soldier and a Union prisoner during the Civil War. Following the war, he became a lawyer and served our State as a judge, until his election to Congress in 1882. There he served until his death in 1896, just months before he would have achieved his life's ambition and taken a seat in the U.S. Senate.

The values and characteristics I have spoken of made him outstanding among his peers from the start, and in the 52d and 53d Congresses, his colleagues elected him Speaker of the House of Representatives.

There have been many great statesmen to come from Georgia and, like Jimmy Carter and Charles Crisp, many of them are the product of small Georgia towns—areas where the values of honesty, productivity, and belief in God are strongly held.

It is always an inspiration to me, as I look through the history of this great country, to see how many of our Nation's leaders were not members of the upper class, how many of them were largely self-educated, and how many of them attained their positions of public trust through the force of their own character, abilities, and efforts.

It is an old cliche that, "In America, anyone can grow up to be President," but it's still true. Look through our history and look at this Congress—with hard work and determination, almost any goal can be achieved in this country.

As our population continues to move away from smaller communities, and our cities build, many of us remember life in smalltown America warmly. Small towns are pictured as havens of friendly neighbors, personal businesses, and strong community morals. When President Carter came to national prominence, he brought that picture of smalltown America to life when he introduced the world to Plains, GA.

In many ways, Plains became the small town that all of us knew and loved. So, as Plains celebrates her centennial this weekend with fanfare, I wanted to let my colleagues know that our small town, the one we all remember so fondly, has reached a pinnacle.

But, more importantly, I wanted to remind you that smalltown America is still alive and well and is still teaching to it's youth those same qualities of honor, strength, and virtue that it always has. Although many of our future leaders may come from our Nation's cities, I feel secure in knowing that we still have a strong training ground busily at work producing tomorrow's leaders in today's smalltown America.●

FOUR DECADES OF SERVICE FOR MR. STANLEY WIDES

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. TORRICELLI. Mr. Speaker, I am honored to call to the attention of the Congress the four decades of service Mr. Stanley Wides has provided to the United States and all the veterans of New Jersey.

Throughout his many years of civic involvement, Mr. Wides has been active and supportive to many organizations. He is a past commander of the Bergen County Jewish War Veterans and the New Jersey State Jewish War Veterans. He has also served on the National Executive Committee of the Jewish War Veterans.

Mr. Wides provided decisive leadership when he served as the director of the New Jersey Allied Council of Veterans Organizations. During his tenure Mr. Wides represented more than 1 million New Jersey veterans with both integrity and conviction. It has been his leadership ability that has prompted past and present Governors of the State of New Jersey to turn to him for advice and counsel.

Mr. Wides is respected by his friends and family as a compassionate and understanding individual. The veterans of New Jersey know him as a friend and leader who they can turn to for advice and assistance, and I know him as an intelligent and hardworking individual, and a community leader and a personal friend.●

FELLOWSHIP PROGRAM FOR THE BLIND AND DEAF

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. ROYBAL. Mr. Speaker, today I am reintroducing my bill to establish a pilot fellowship program for the blind and deaf.

This resolution, House Resolution 540 in the last Congress, attracted 56 cosponsors and a lot of attention from groups representing the blind and deaf. Everyone I heard from was very supportive of the fellowship, and the organizations thought such a program would be a tremendous boost to their members. I even heard from people who were eager to participate in the fellowship—it was just the impetus they needed to become involved in the legislative process. This heartening response convinced me of the worthiness of such a program, thus my reintroduction of this resolution.

Upon passage of this resolution, a 2-year pilot program would be set up for 100 fellows a year. At the end of that period, the House Administration Committee would evaluate it and issue recommendations as to the advisability of continuing. The experiences of the fellows will weigh heavily in the evaluation. If the program does not accomplish what I believe it can, I will be the first to admit it should be terminated. However, if the fellowships are properly chosen and administered, I don't see how the program can miss.

I am convinced that we need this or a similar program to encourage blind and deaf men and women to consider employment on Capitol Hill as a viable career option. Concurrently, offices up here would have a valuable opportunity to experience the abilities, talents, and unique perceptions of these individuals.

I know you all share my commitment to making sure the legislation process is open to all Americans. I believe this resolution embodies that commitment, and I hope you will join me in cosponsoring it.

For more detailed information on my resolution, a section-by-section analysis follows:

SECTION-BY-SECTION ANALYSIS

SECTION 1

Establishes a pilot program of Congressional fellowships for the blind and deaf, and sets out the purpose of the program.

There will be 100 positions available each year for two years. Each Member, Committee or Subcommittee may fill one position on a first come, first served basis, and are instructed to consider the qualifications of the fellow in assigning the position.

SECTION 2

Requires that participants be blind or deaf, can only serve for one session of Congress, will be paid $20,000 per year and, for administrative purposes, be treated in the same manner as an LBJ intern.

SECTION 3

Provides that any special equipment needed by the fellows will be made available through the House Administration Committee.

SECTION 4

Establishes that the program will be funded through the contingent fund of the House.

SECTION 5

Establishes that the positions and amounts provided for in this resolution are in addition to the positions and amounts otherwise available to Members, Committees and Subcommittees.

SECTION 6

Directs the Committee on House Administration to evaluate and report to the House on the effectiveness of the program and whether it should continue.

SECTION 7

Defines "blind" and "deaf."

SECTION 8

Gives the Committee on House Administration the authority to prescribe regulations to carry out the resolution.●

HUNTINGTON, WV

HON. NICK J. RAHALL, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. RAHALL. Mr. Speaker, I would like to bring to the attention of my colleagues a column by the publisher and editor of the Herald-Dispatch in Huntington, WV. I believe that the spirit of optimism espoused in Mr. Hatfield's article is indicative of the mood of West Virginians even as we weather the storm of unemployment as the much-heralded economic recovery has yet to find its way to southern West Virginia. I think that all of my colleagues should share in this spirit of optimism that I am proud to say is prevalent in my district in southern West Virginia:

HUNTINGTON: A CITY THAT IS JUST CHANGING, NOT DYING

If you read the letters in our "Voice of the People" regularly, as I do, then you know that a growing number of readers believe that "Huntington is a dying city."

Most of these point to vacant storefronts downtown, to the proposed "Superblock" which still is a nine-acre parking lot, to our frequently-dark Civic Center, our boarded-up hotel, to problems some downtown merchants are having, to the lack of jobs in the region.

Well, those are hardly encouraging examples, to be sure.

But Huntington a dying town? I don't believe that.

It's a changing town.

If you travel across this land, you'll find many cities Huntington's size having the same problems we do.

I remember several years ago when a sociologist predicted that America's cities were on the verge of great change. There would be no stores in them, he said. Instead, people would drive to huge covered shopping centers outside the cities, where they could park easily and shop in many varied stores.

Cities would survive, he said, but in a different way. They would be centers for offices, for services, for entertainment, but no longer for shopping as they then were.

In fact, he predicted, the day would come when cars would be banished from downtowns. Drivers would park at the edge of the cities and take shuttles to their office jobs. We'd have to do that, he said, because pollution from auto exhausts would be so bad.

I thought at the time the guy was being pretty far-out. Huge covered shopping centers? Downtowns with only offices and restaurants?

Well, look at what has happened.

Actually, all things considered, Huntington has fared pretty well. Visitors continue to regard it as a surprisingly attractive and successful downtown. They like our pedestrain plaza with its fountain and sculpture. They like our stores. They like our theaters. They say it's a clean downtown, not at all what they see in many other places.

And Huntington, make no mistake about it, is the size city that has been most affected by change. The really small towns have stayed pretty much the same, and so, of course, have the New Yorks, and Washingtons, the metropolises. But the Huntingtons, Lexingtons, Knoxvilles, Tulsas, Louisvilles have had problems in their downtown areas.

They've not dying as cities, however, they're changing.

After all, most cities have large shopping malls 10 to 25 miles outside the city limits. Land is more abundant—and cheaper. And shoppers' habits and styles have changed.

It seems to me we've got to redefine what we mean when we say "city" anyway.

Is a city no more than what is contained within the city limits?

Is a city no more than its downtown?

A city is many things. It's schools, neighborhoods, parks, rivers, even suburbs.

We look at the population of Huntington and find that it has dwindled by 20,000 in 20 years. Yet Cabell County's population has remained the same during that period and that of Wayne County and Lawrence County, Ohio, has increased.

Much of Lawrence has become a bedroom community of Huntington. And the towns of Milton, Barboursville, Kenova, Ceredo and Wayne are not only parts of Greater Huntington, but parts of growing importance.

It's time we realized that. It's time we permitted our minds to expand beyond the boundaries of any one town, village or city.

It's time we realize that we're all in this together, dependent upon each other for the future.

I'd like to see every storefront in downtown Huntington filled and busy. I wish 4th Avenue and 3rd Avenue looked today as they did in the 1950s, when I was entering college here.

But that isn't the way it is and that isn't the way it's going to be.

And we don't help matters any by declaring this "a dying city."

I'm grateful we have a shopping mall which provides not only shopping, but jobs and tax dollars.

And I'm grateful there still is so much to be proud of in this area.

Picking up a visitor at the airport Wednesday, I found myself pointing with pride to Pilgrim Glass as we drove past, and then

going on to talk about Blenko as well. As the day went on, I was showing off the Huntington Galleries, Ritter Park, the bridges into Ohio, the Harris river-front park, the 9th Street plaza, our theaters—especially the old Keith—and Marshall University.

That evening I was proud to take my guest to Permon's, the elegant restaurant atop the West Virginia Building from where I pointed, again with some pride, to two other states.

I talked about the employers here upon whom so many of our jobs depend: Armco, Ashland Oil, Huntington Alloys, Marshall University and others.

I talked about the city becoming a banking center and a regional medical center. There was growth in both new "industries," I said, and that well could be Huntington's future.

I talked about the success of Marshall's football and basketball programs, the new Henderson Center, the proposed new football stadium, and how such successful programs also help the local economy.

It didn't occur to me until later that not once did I talk about Huntington being a "dying town."

Actually, it's time we went even beyond the suburbs and realized that our "city" stretches not only beyond its own borders but state borders as well.

We are slowly becoming a true Tri-State region, no longer estranged from each other. We live in one state, work in another, shop in still another.

The success of the newly formed River Cities Cultural Council, in which all three states, all three cities, several counties, every school system and many businesses contributed money for arts, education and possibly jobs, is a good example of what can be done.

But first we've got to believe in it. And above all, we've got to stop saying that we're "dying" just because we have a few aches and pains.●

ADDITIONAL SMALL BUSINESS SAVINGS

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. MITCHELL. Mr. Speaker, today I have introduced legislation which reauthorizes the Small Business Administration for 3 additional years and which saves some $1.5 billion more than a freeze alone would save.

Last February I introduced an earlier version of this bill. The old bill, H.R. 1281, provided a similar 3-year authorization and would have yielded savings of some $320 million. Since then we have held field hearings in some 7 cities and an additional 3 days of hearings in Washington at which we heard from over 200 small businesses. Their message, along with the one we have received from a bipartisan group of some two dozen Governors and State legislatures is the same: Save the SBA and leave it viable.

I wholeheartedly agree with this message and my only problem with it is that it does not go far enough. I believe that SBA programs should be expanded substantially and that it is sheer lunacy to talk about elimination or severe cutbacks.

Nonetheless I believe that the mood in Congress requires an even greater reduction in outlays by the Small Business Administration. As a result I have revised my earlier legislation in order that it now will achieve savings of some $1.5 billion over the next 3 fiscal years as compared to a 1-year freeze.

The changes are as follows:

First, it limits physical disaster loans to $335 million in fiscal year 1986 and nonphysical disaster loans to $65 million. In the outyears, it limits physical disaster loans to a maximum of $500 million in each of fiscal years 1987 and 1988—it leaves unchanged the $100 million nonphysical program proposed for these years. This amount is identical to that applicable to fiscal year 1986 as provided in Public Law 98-270.

Second, it prohibits the Federal Financing Bank from acquiring debentures issued by small business investment companies with an SBA guarantee. Existing law authorizes the Federal Financing Bank to purchase these debentures which it does with money derived from the Treasury. My bill now would prohibit this and instead would have SBA sell the debentures to investors, thereby eliminating Federal outlays as the SBA guarantee is only a contingent liability. I want to note here that it is an extremely contingent liability and that in the approximately 25 years in which this program has operated. SBA has guaranteed $2 billion in debentures and has lost only $36 million.

Third, the bill further limits the amount of assistance which may be provided annually under the Surety Bond Guarantees Program to $900 million per year and under the Pollution Control Bond Guarantee Program to $50 million per year.

Finally, it equates the amount of direct loans with the amount of additional Federal taxes generated by those firms which receive direct loans from SBA. At our committee hearings, witness after witness stressed the amount of taxes which were generated by the SBA loan. I have long said this and now for the first time I propose to measure the amount of taxes and shut down the direct loan program any time the additional taxes do not exceed net losses on the loan program.

A detailed explanation of my new bill follows:

EXPLANATION OF H.R. 2540 BY MR. MITCHELL

The bill makes changes in eligibility for direct loans and provides a three-year authorization for SBA. The program levels for direct loans would be reduced 15 percent from the amounts contained in the regular appropriations bill for FY 1985; and guaranteed levels and salaries and expenses would be frozen or slightly reduced.

DIRECT LOAN PROGRAM

The bill changes the direct loan program as follows:

First, direct loans would be restricted to prospective businesses or new ones within eighteen months after they commence operations (i.e., to those without a "track record");

Second, direct loan applicants would be required to supply additional funds from nonfederal sources of at least 25 percent (now there is no set requirement);

Third, direct loans would be limited to $150,000 (now $350,000); and

Fourth, direct loans would be limited to a maximum term of ten years (now twenty-five years plus any construction time).

Finally, SBA would ascertain the amount of additional Federal taxes paid by direct loan borrowers as a result of the SBA loan as compared to net losses on the program. If losses ever exceed additional taxes, the program would shut down.

NEW DIRECT LOAN LEVELS

The program levels for direct loans under the regular business, handicapped, economic opportunity, and veterans loan programs would be reduced from the amount appropriated for 1985 ($206 million) to $175 million, a reduction of $31 million or 15 percent.

MESBICs would be frozen at $41 million.

GUARANTEED LOAN LEVELS

The program levels for guaranteed loans under the regular business, handicapped, economic opportunity, energy and development company loan programs would be frozen at the 1985 level of $3.18 billion.

SBICs would be frozen at $250 million. Also, SBIC debentures would be sold to investors rather than acquired by the Federal Financing Bank.

DISASTER LOAN LEVELS

The program level for physical disaster loans in 1986 would be reduced to $355 million and for nonphysical disaster loans would be reduced to $65 million. For 1987 and 1988 the physical disaster loan program would be frozen at $500 million per year and the nonphysical disaster loan program would be frozen at $100 million per year.

SURETY BOND GUARANTEES

The program level for the surety bond guarantees programs would be set at $900 million.

POLLUTION CONTROL BOARD GUARANTEES

The program level for the pollution control bond guarantees program would be set at $50 million.

SALARIES AND EXPENSES

The level of salaries and expenses would be frozen at $205.34 million.

BUDGET AUTHORITY

The bill authorizes the following appropriations (1985 level was $700.25 million):

1986—$686.34 million;

1987—$716.34 million; and

1988—$739.34 million.●

REPORT OF CHEMICAL WARFARE REVIEW COMMISSION

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. COURTER. Mr. Speaker, I submit for the RECORD the testimony given by Ambassador Walter J. Stoessel, Jr., Chairman of the Chemical Warfare Review Commission, at the Senate Armed Services Committee on May 1, 1985, and a summary of the Commission's findings. In view of the importance of this issue in the defense authorization debate, I urge my colleagues to read and study the Commission's findings carefully:

AMBASSADOR WALTER J. STOESSEL, JR., CHAIRMAN, CHEMICAL WARFARE REVIEW COMMISSION: TESTIMONY BEFORE THE SENATE ARMED SERVICES COMMITTEE—MAY 1, 1985

Mr. Chairman, it is my privilege to present to the Committee the preliminary findings of the bipartisan Chemical Warfare Review Commission, established by the President in Executive Order 12502 of January 28, 1985, in accordance with the provisions of Section 1511 of the Department of Defense Authorization Act of 1985.

Those appointed to serve on this Commission were, in addition to myself, Mr. Phillip John Bakes, President of Continental Airlines; Dr. Zbigniew Brzezinski, former Assistant to the President for National Security Affairs; General Richard E. Cavazos, whose last active-duty position was Commander, U.S. Army Forces Command; the Honorable Barber B. Conable, Jr., formerly a member of the House of Representatives from New York; the Honorable John N. Erlenborn, formerly a member of the House of Representatives from Illinois; General Alexander M. Haig, Jr., former U.S. Secretary of State and also former Supreme Allied Commander, Europe; and Mr. John G. Kester, a partner in the Washington law firm of Williams and Connolly and former Special Assistant to the Secretary of Defense.

The Congress directed this Commission to "review the overall adequacy of the chemical warfare posture of the United States with particular emphasis on the question of whether the United States should produce binary chemical munitions."

The Commission was further directed to consider the relationship of this matter to United States efforts for a multilateral, verifiable ban on chemical weapons; the adequacy of the current United States stockpile of chemical weapons in providing a credible deterrent to Soviet use of chemical weapons against United States and allied forces; whether the proposed binary program will provide a credible deterrent to chemical warfare; and, finally, whether defensive measures alone are adequate to meet the Soviet chemical warfare threat and whether current and projected funding of defensive measure programs is adequate.

The Commission has been meeting for two months, and has carefully studied all these matters. It began by considering United States policy with respect to chemical weapons. That policy has three elements:

Arms control. The United States will actively pursue the achievement of a multilateral, verifiable ban on the development, production, and stockpiling of chemical weapons.

Deterrence. Until such a ban is achieved and in effect, the United States will retain the capability to deter chemical attack by other powers.

No first use. The United States will never use chemical weapons except in retaliation for the use of chemical weapons against the United States or its allies.

The Commission has concluded that the policy as stated continues to be appropriate. The members of the Commission wish to stress their conviction that achieving a multilateral, verifiable ban on chemical weapons should remain a priority aim of the United States.

In carrying out its work, the Commission reviewed the history of chemical weapons use, the scientific characteristics of modern chemical warfare agents, the technology of chemical defenses and chemical munitions, and the technology for demilitarizing obsolete and deteriorating munitions. The Commission has heard briefings by intelligence specialists on the Soviet Union's capability in both offensive weaponry and defense, and also on the spread of chemical weapons possession and the authenticated use of these weapons in warfare in recent years.

Members of the Commission traveled to Europe, where we spoke with U.S. commanders and service men and women, and representatives of our NATO allies. We also viewed a portion of the current stockpile at several locations in the United States.

The Commission has reached a general consensus on the matters we were asked to consider, and I should now like to convey to you our findings to date, which I expect will appear in substantially this form in the final report.

On the matter of the relationship of stockpile modernization to the U.S. goal of achieving multilateral, verifiable ban on the development, production, and stockpiling of chemical weapons, the Commission believes that modernization would be likely to increase the chances of achieving such a ban. The Commission has noted that in the 16 years since the unilateral renunciation by the United States of production of chemical munitions the Soviet Union has not progressed substantively toward acceptance of such a ban; on the contrary, it has continued its intensive program of production and research and development for chemical munitions.

On the matter of the adequacy of the existing stockpile to deter, this is what the Commission found:

The existing U.S. store of chemical weapons dates from the 1940's through 1960's and is in deteriorating conditon. The bulk of it is militarily useless; a small fraction of the stockpile has deterrent value. All of it is potentially hazardous to handle.

Soviet chemical warfare capability is sizable and is increasing.

A more credible U.S. chemical retaliatory capability is needed in order to prevent either quick defeat or early escalation to a nuclear exchange in the event chemical weapons are used by the adversary.

Failure to acquire an effective chemical retaliatory capability could have the United States with only nuclear retaliation to deter chemical attack.

The current stockpile should be destroyed at an accelerated rate.

The Commission carefully considered the proposed binary program, and came to the following conclusions:

The binary program will provide an adequate deterrent capability to meet our present needs and is necessary because of the deteriorating condition of the current stockpile.

The great advantage of the proposed binary munitions is safety.

The projected binary munitions program will not produce a more lethal generation of weapons. It provides, rather, a safer, separate packaging of nonlethal chemicals that combine to form lethal agents only when launched. The agents which would be formed after launching are identical to the lethal agents already produced and stored in the U.S. stockpile.

Substitution of these safer binary weapons to replace existing U.S. munitions filled with lethal nerve agent will provide much greater safety for U.S. personnel, and will simplify transport and handling. In addition, effective elimination of potential environmental hazards will be far easier and less expensive.

On the question of whether defensive measures alone are adequate to meet the Soviet threat, the Commission found:

The expectation that protective measures alone can offset the advantages to the Soviets from a chemical attack is not realistic.

Even if defensive equipment works, it severely handicaps personnel who must wear it. Without a retaliatory capability, this leads to an overwhelming military advantage for the attacker armed with chemical weapons.

In addition to its conclusions on the four matters it was specifically asked to address, the Commission reached several additional conclusions on the basis of its extensive review of this country's chemical warfare posture. Here are those additional conclusions:

On the matter of deployment of binary munitions, the Commission concluded that peacetime deployment of binary munitions in foreign countries is not essential, because of the safety and speed with which these munitions can be transported.

The Commission concluded that research and development efforts on both defensive items and detection equipment, as well as on retaliatory chemical agents and munitions, should be accelerated, both in order to deter the Soviet Union from using new agents and in order to develop countermeasures.

Finally, the Commission concluded that U.S. intelligence gathering and analysis regarding chemical warfare activities of the Soviet Union and other countries should be greatly improved.

A full report on the Commission's review of U.S. chemical warfare posture, which will amplify our views and may contain additional conclusions and recommendations, is now being prepared and will be ready for delivery to the President for transmission to Congress within a few weeks.

If, in the meantime, members of this committee have questions about the thinking or data that underlie the conclusions I have presented, I shall be happy to discuss these with you.

SUMMARY OF FINDINGS AND CONCLUSIONS

This Commission was directed by the Congress to review the overall adequacy of the chemical warfare posture of the United States. The Commission began by considering United States policy with respect to chemical weapons. That policy has three elements:

Arms control. The United States will actively pursue the achievement of a multilateral, verifiable ban on the development, production, and stockpiling of chemical weapons.

Deterrence. Until such a ban is achieved and in effect, the United States will retain the capability to deter chemical attack by other powers.

No first use. The United States will never use chemical weapons except in retaliation for the use of chemical weapons against the United States or its allies.

The Commission found the policy as stated continues to be appropriate.

The Commission was directed by the Congress to consider four specific questions: [1]

1. The relationship of chemical stockpile modernization by the United States with the ultimate goal of the United States of achieving a multilateral, comprehensive, and verifiable ban on chemical weapons;

2. The adequacy of the existing United States stockpile of unitary chemical weapons in providing a credible deterrent to use by the Soviet Union of chemical weapons against the United States and allied forces;

3. Whether the binary chemical modernization program proposed by the Department of Defense is adequate to support United States national security policy by posing a credible deterrent to chemical warfare; and

4. The ability of defensive measures alone to meet the Soviet chemical warfare threat and the adequacy of funding for current and projected defensive measure programs.

The following are the Commission's findings on each of the four points it was directed to address:

The effect of modernization on achieving a chemical weapons ban

The Commission believes that modernization would likely increase the chances of achieving a multilateral, verifiable ban on chemical weapons. The Commission notes that in the 16 years since the unilateral renunciation by the U.S. of production of chemical munitions, the Soviet Union has not progressed toward acceptance of such a ban; on the contrary, it has continued its intensive program of production and research and development for chemical munitions.

Adequacy of the existing stockpile to deter

The Commission has found that:

The existing U.S. store of chemical weapons dates from the 1940's through 1960's and is in deteriorating condition. The bulk of it is militarily useless; a small fraction of the stockpile has deterrent value. All of it is potentially hazardous to handle.

Soviet chemical warfare capability is sizable and increasing.

A more credible U.S. chemical retaliatory capability is needed in order to prevent either quick defeat or early escalation to a nuclear exchange in the event chemical weapons are used by the adversary.

Failure to acquire an effective chemical retaliatory capability could leave the United States with only nuclear retaliation to deter chemcial attack.

The current stockpile should be destroyed at an accelerated rate.

The Binary Chemical Program

The Commission has found that:

The proposed binary program will provide an adequate deterrent capability to meet our present needs and is necessary because of the deteriorating condition of the current stockpile.

The great advantage of the proposed binary munitions is safety.

The projected binary munitions program will not produce a more lethal generation of weapons. It provides, rather, a safer, separate packaging of nonlethal chemicals that combine to form lethal agents only when launched. The agents which would be formed after launching are identical to the lethal agents already produced and stored in the U.S. stockpile.

Substitution of these safer binary weapons for existing U.S. munitions filled with lethal nerve agent will provide much greater safety for U.S. personnel and will simplify transport and handling. In addition, effective elimination of potential environmental hazards will be far easier and less expensive.

Defensive measures

The Commission has found that:

The expectation that protective measures alone can offset the advantages to the Soviets from a chemical attack is not realistic.

Even if defensive equipment works, it severely handicaps personnel who must wear it. Without a retaliatory capability, this leads to an overwhelming military advantage for the attacker armed with chemical weapons.

Additional conclusions

The Commission in the course of its deliberations has also arrived at these additional conclusions:

Deployment. The Commission does not consider peacetime deployment of binary munitions in foreign countries to be essential, because of the safety and speed with which these munitions can be transported.

Research and Development. The Commission believes that research and development efforts on both defensive items and detection equipment, as well as on retaliatory chemical agents and munitions, should be accelerated, both in order to deter the Soviet Union from using new agents and in order to develop countermeasures.

Intelligence. The Commission believes that U.S. intelligence gathering and analysis regarding chemical warfare activities of the Soviet Union and other countries should be greatly improved.●

[1] These four questions were incorporated into the three tasks of Executive Order 12502, dated January 28, 1985.

LEGISLATION TO PROTECT SENIOR NUTRITION PROGRAM

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. BIAGGI. Mr. Speaker, last Thursday, I introduced H.R. 2453, legislation that will address the current funding shortfall in section 311 of the Older Americans Act. I am pleased to note that I am joined in this effort by my colleague, DALE KILDEE who now chairs the Human Resources Subcommittee which oversees Older Americans Act programs.

This bill is designed to assure adequate funding for meals served by States under section 311 of the act and also prohibits the Secretary of Agriculture from reducing funding for this program in any year that appropriations are insufficient to meet the anticipated number of meals served by States.

This bill is needed because under section 311, the current $116 million appropriated in fiscal year 1986 will not provide enough money for States to continue to serve meals at current service levels. Under section 311, the Secretary is authorized to reduce reimbursements per meal, which are established in the statute. For this fiscal year, the rate was originally established at 58.76 cents per meal for those States which choose to receive cash in lieu of commodities. On February 21, 1985, the Department published notice in the Federal Register that it intended to reduce the per meal rate from the original 58.75 cents to 56.76 cents per meal. This reduction was based upon an estimated 212.8 million meals to be served in this year at the $116 million funded level.

Upon receiving notice of reimbursement at the rate of 58.76 cents, States planned their annual projects accordingly. If we do not provide an additional $5 million in this year, these same States will be forced to reduce or eliminate meal programs because they will be receiving reimbursement at the lower rate.

This bill would increase the authorization levels in section 311 to accommodate the increased demand for meals at the following levels: $125.8 million for fiscal year 1985, $135.9 million for fiscal year 1986, and $147 million for fiscal year 1987. It will also delete the authority of the Secretary to reduce reimbursements for this program when projected meals being served will exceed the existing appropriation.

In my opinion, if States are serving meals respective of need for such meals, then the Department should seek a supplemental appropriation to assure the higher level of services. To reduce or eliminate meals is unnecessary and counterproductive.

Mr. Speaker, I would not pursue a legislative remedy to this problem at this time if the meal programs were not directly threatened for reduction. I have received a letter from the Department affirming the fact that they did indeed advise States last year that they would receive 58.75 cents per meal, only to reduce it to 56.76 cents at this time. Adjustments in reimbursements must be made in a manner that will allow States to budget appropriately. To reduce funding in the middle of a budget cycle only guarantees cuts in meal programs.

In addition, passage of this bill will allow the Appropriations Committee to provide the estimated $5 million extra that is needed to assure that States will not lose meal dollars in this fiscal year. This is because the current appropriated level of $116 million is also the fully authorized level. Passage of this bill to increase authorizations and eliminating the Secretary's discretion to reduce reimbursements will be

the first step in addressing this problem on a permanent basis.

Mr. Speaker, this bill is a small but important initiative and I hope that my colleagues will join me in supporting its passage.●

BASEBALL TEAM SOUGHT FOR WILKES-BARRE/SCRANTON AREA

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. KANJORSKI. Mr. Speaker, I would like to bring to your attention an article, which appeared in the April 15 issue of USA Today, detailing some of the exciting work being done in northeastern Pennsylvania to attract a professional baseball team. I call this exciting because this project is bringing together the energies and enthusiasm of so many people in our area, and proving how much pride we have in our region.

A stadium is being built even though no team has been selected to use it. And, perhaps even more remarkable is the fact that more than 2,000 season tickets have already been sold. And this is almost 2 years before the stadium is even completed.

Our region has been through some hard times in recent years, but we are on our way back. We're planning for a more prosperous future, and this new professional baseball stadium is indicative of the effort and enthusiasm that is present.

Mr. Speaker, I would like to include the text of the USA Today article which explains in greater detail just what is being done in that regard.

[From USA Today, Apr. 15, 1985]

MAJOR-LEAGUE PITCH FOR MINOR LEAGUE—NORTHEASTERN PENNSYLVANIA TOWNS PLOT TO ATTRACT BASEBALL FRANCHISE

(By D.I. Strunk)

SCRANTON, PA.—"When somebody mentions Scranton or Wilkes-Barre what do you think of?" asked John McGee, the man most responsible for trying to bring professional baseball back to northeastern Pennsylvania. "Coal mines. Right? Coal-crackers. Well, we haven't been in the coal-mining business for 40 years."

Well, people here like McGee are weary of that false public image. And they've decided not to take it anymore.

So they built a new ski resort that opened this year and lengthened their airport runways. They converted abandoned railroad stations to hotels and railway cars to restaurants. They turned old mines into tourist attractions and bolstered their economy by luring a variety of light-manufacturing companies.

Now leaders in Scranton and Wilkes-Barre are doing something strictly for their own quality of life. Something to add to their philharmonic orchestra, their Nay Aug zoo, the nearby Pocono Mountain resorts and the Pocono Downs race track.

They want to bring minor-league baseball to the area.

OK, so its not the big leagues. But class AAA minor-league ball—whose season opened last week across the USA—is as close as you can get.

OK, so they don't have a Class AAA team yet. But they're building a 12,000-seat stadium.

OK, so the stadium won't be finished for two years. But they've already sold 2,151 season tickets.

"Where else could you sell $238 season tickets for 70 home games for a team that doesn't exist and a stadium not built yet," said Greater Wilkes-Barre Chamber of Commerce president John Sheehan. "And baseball is just one of the stories of our naked city."

But it is the one that has everybody talking. Even more than the new Rand McNally's Places Rated Almanac that jacked the area of Scranton and Wilkes-Barre up 99 spots to make it the USA's 64th-most-attractive metropolis.

What makes this baseball story so enticing is that while just about every big city without a major-league team is vying for a franchise, this area is waiting to gather in the extras.

"The new teams have to put their minor-league clubs some place," explained McGee.

So do the old ones, which has been a problem even without major-league expansion. There aren't that many adequate stadiums and facilities for minor-league clubs, particularly in the East. Those that do exist, says Bobby Bragan, former president of the minor leagues and now with the Texas Rangers, often "leave a lot to be desired."

In fact, in 1979 Bragan told the Northeastern Baseball Corp.—formed to bring baseball to this area—that if it had had a stadium a year earlier they could have had the Yankees AAA club when they terminated with Syracuse, N.Y.

"They ended up in Tacoma, Wash.," Bragan said, "because there was no other Eastern facility."

The Philadelphia Phillies, two hours south, have expressed serious interest in moving its AAA club from Portland, Ore., if there was a minor-league stadium in the East. The International League, with eight AAA clubs from Maine to Virginia, has voted to expand when major-league baseball expands.

McGee was fully aware there was "a need" when he was a law student at the University of Louisville nine years ago listening to congressional hearings into the marketing, operating and antitrust laws governing professional sports.

That's when the idea started percolating in McGee's very organized, certified public accountant's mind. He knew the area of Scranton and Wilkes-Barre (pop. 650,000) couldn't support a major-league club. But a minor-league team would fit perfectly. There was even a track record. In the 1940-50s, the area had two successful minor-league teams: the Miners (also once called Red Sox) in Scranton and the Barons in Wilkes-Barre. But with the advent of TV baseball, the teams were sold and the old stadiums dismantled.

What McGee needed was support from the Lackawanna and Luzerne county commissioners to build a multipurpose stadium—modeled after the one in Columbus, Ohio—with the main tenants being a baseball team. As many of the larger cities seeking major-league teams have discovered the formula is as simple as "no stadium—no team."

But the governing bodies of the two counties—deeply dedicated to high school sports and rivalries—didn't embrace the idea. The only project the two cities had ever cooperated on was the Northeast Philharmonic.

So McGee, 34, who recently became county solicitor, went into quiet, backroom lobbying. "Planning is everything," said the former high school shortstop. "You have to proceed with the attitude that you're going to make the pivot for the double play."

McGee persuaded Bragan and other baseball executives to visit and help sell the idea. He got the area communities involved in raising $19,000 for a feasibility study. But what really helped was a year and a half ago when the Old Republican grip on Lackawanna was broken with two new Democratic commissioners.

Said one of the new commissioners, ex-Marine Ray Alberigi: "I felt a ballclub would project the area image in a better light." He also pointed out the stadium would create 20 full-time and 80 part-time jobs.

Added fellow new commissioner Joe Corcoran: "It'll be one more thing to attract industry while enhancing the quality of life."

Still, even the new commissioners weren't totally convinced the public wanted a baseball team. So they agreed to provide some funding for a new stadium only if Northeastern Baseball could sell 2,000 charter season tickets between Oct. 9 and Jan. 1.

"It was a most difficult period," said McGee. "I'd speak night after night. Sometimes to groups of only 10 people."

But the corporation exceeded its goal. Alex Brogna, vice president of the Wyoming National Bank of Wilkes-Barre and former Minnesota Twins minor-league third baseman said: "We're still getting a lot of inquiries from people who couldn't come up with the lump $238, but say they'll be coming to every game."

With the help of federal, state and county funds the stadium plans to open for the 1987 season. As a safety valve, Northeastern Baseball has purchased the Waterbury, Conn., AA club for $350,000 so there'll be someone to play in the new stadium in case a AAA team hasn't been acquired by opening day.

The only real problem that remained was picking a team name. A write-in poll determined that anxious fans favored "Red Barons," combining the names of the erstwhile area minor-league teams.

"One thing was certain," said McGee, "the name definitely wasnt going to reflect the false miners or coal image."

Added Austin Burke, president of the Greater Scranton Chamber of Commerce, "Way things are moving around here it may only be just another 10 years before that old coal image is completely out of people's minds."●

PRESIDENT VON WEIZSACKER ON END OF WW II

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. MAVROULES. Mr. Speaker, the storm of controversy that swirled about President Reagan's ill-advised Bitburg visit clouded the lessons of May 8, 1945—the day on which World War II ended in Europe.

With regard to this commemoration and its meaning, few in my estimation have been more thoughtful or lucid than Richard von Weizsacker, the President of West Germany.

In order to shed valuable light on this timely and important subject, I would like to share with my colleagues excerpts from Mr. von Weizsacker's speech before the Parliament in Bonn that appeared in the New York Times on Thursday, May 9, 1985.

His words are heartfelt and deserve to be read.

The excerpts follow:

Many nations are today commemorating the date on which World War II ended in Europe. Every nation is doing so with different feelings, depending on its fate. Be it victory or defeat, liberation from injustice and alien rule or transition to new dependence, division, new alliances, vast shifts of power—May 8, 1945, is a date of decisive historical importance for Europe.

We Germans are commemorating that date amongst ourselves, as is indeed necessary. We must ourselves find our own standards. We are not assisted in this task if we or others spare our feelings. We need and we have the strength to look truth straight in the eye, without embellishment and without distortion.

For us May 8 is above all a date to remember what people had to suffer. It is also a date to reflect on the course taken by our own history. The greater honesty we show in commemorating this day, the freer we are to face the consequences with due responsibility. For us Germans, May 8 is not a day of celebration. Those who actually witnessed that day in 1945 think back on highly personal and hence highly different experiences. Some returned home, others lost their homes. Some were liberated, whilst for others it was the start of captivity. Many were simply grateful that the fear had passed and that they had survived. Others felt, first and foremost, grief at the complete defeat suffered by their country. Some Germans felt bitterness about their shattered illusions, whilst others were grateful for the gift of a new start.

LIBERATED ALL OF US

Yet with every day something became clearer, and this must be stated on behalf of all of us today: May 8, was a day of liberation. It liberated all of us from the inhumanity and tyranny of the National Socialist regime.

Nobody will, because of that liberation, forget the grave suffering that only started for many people on May 8. But we must not regard the end of the war as the cause of flight, expulsion and deprivation of freedom. The cause goes back to the start of the tyranny that brought about the war. We must not separate May 8, 1945, from January 30, 1933.

There is truly no reason for us today to participate in victory celebrations. But there is every reason for us to perceive May 8, 1945, as the end of an aberration in German history, an end bearing seeds of hope for a better future.

May 8 is a day of remembrance. Remembering means recalling an occurrence honestly and undistortedly so that it becomes a part of our very beings.

REMEMBERING JEWISH DEAD

Today we mourn all the dead of the war and the tyranny. In particular we commemorate the six million Jews who were murdered in German concentration camps. We commemorate all nations that suffered in the war, especially the countless citizens of the Soviet Union and Poland who lost their lives. As Germans, we mourn our own compatriots who perished as soldiers, during air raids at home, in captivity or during expulsion. We commemorated the Sinti and Roman gypsies, the homosexuals and the mentally ill who were killed, as well as the people who had to die for their religious or political beliefs. We commemorate the hostages who were executed. We recall the victims of the resistance movements in all the countries occupied by us. As Germans, we pay homage to the victims in the German resistance, among the public, the military, the churches, the workers and trade unions and the Communists. We commemorate those who did not actively resist, but preferred to die instead of violating their consciences.

Alongside the endless army of the dead, mountains of human suffering arose grief for the dead, suffering from injury or crippling or barbarous compulsory sterilization, suffering during the air raids, during flight and expulsions, suffering because of rape and pillage, forced labor, injustice and torture, hunger and hardship, suffering because of fear of arrest and death, grief at the loss of everything which one had wrongly believed in and worked for. Today we sorrowfully recall all this human suffering.

BURDEN BORNE BY WOMEN

Perhaps the greatest burden was borne by the women of all nations. Their suffering, renunciation and silent strength are all too easily forgotten by history. Filled with fear, they worked, bore human life and protected it. They mourned their fallen fathers and sons, husbands, brothers and friends. In the years of darkness, they insured that the light of humanity was not extinguished. After the war, with no prospect of a secure future, women everywhere were the first to set about building homes again, the rubble women in Berlin and elsewhere. Because of the war, many women were left alone and spent their lives in solitude. Yet it is first and foremost thanks to the women that nations did not disintegrate spiritually on account of the destruction, devastation, atrocities and inhumanity and that they gradually regained their foothold after the war.

At the root of the tyranny was Hitler's immeasurable hatred against our Jewish compatriots. Hitler had never concealed this hatred from the public, but made the entire nation a tool of it. Only a day before his death, on April 30, 1945, he concluded his so-called will with the words: "Above all, I call upon the leaders of the nation and their followers to observe painstakingly the race laws and to oppose ruthlessly the poisoners of all nations: international Jewry." Hardly any country has in its history always remained free from blame for war or violence. The genocide of the Jews is, however, unparalleled in history.

WHO COULD BE UNSUSPECTING?

The perpetration of this crime was in the hands of a few people. It was concealed from the eyes of the public, but every German was able to experience what his Jewish compatriots had to suffer, ranging from plain apathy and hidden intolerance to outright hatred. Who could remain unsuspecting after the burning of the synagogues, the plundering, the stigmatization with the Star of David, the deprivation of rights, the ceaseless violation of human dignity? Whoever opened his eyes and ears and sought information could not fail to notice that Jews were being deported. The nature and scope of the destruction may have exceeded human imagination, but apart from the crime itself, there was, in reality, the attempt by too many people, including those of my generation, who were young and were not involved in planning the events and carrying them out, not to take notice of what was happening. There were many ways of not burdening one's conscience, of shunning responsibility, looking away, keeping mum. When the unspeakable truth of the Holocaust then became known at the end of the war, all too many of us claimed that they had not known anything about it or even suspected anything.

There is no such thing as the guilt or innocence of an entire nation. Guilt is, like innocence, not collective, but personal. There is discovered or concealed individual guilt. There is guilt which people acknowledge or deny. Everyone who directly experienced that era should today quietly ask himself about his involvement then.

The vast majority of today's population were either children then or had not been born. They cannot profess a guilt of their own for crimes that they did not commit. No discerning person can expect them to wear a pentiential role simply because they are Germans. But their forefathers have left them a grave legacy. All of us, whether guilty or not, whether old or young, must accept the past. We are all affected by its consequences and liable for it. The young and old generations must and can help each other to understand why it is vital to keep alive the memories. It is not a case of coming to terms with the past. That is not possible. It cannot be subsequently modified or made undone. However, anyone who closes his eyes to the past is blind to the present. Whoever refuses to remember the inhumanity is prone to new risks of infection.

REMEMBER AND RECONCILE

The Jewish nation remembers and will always remember. We seek reconciliation. Precisely for this reason we must understand that there can be no reconciliation without remembrance. The experience of millionfold death is part of the very being of every Jew in the world, not only because people cannot forget such atrocities, but also because remembrance is part of the Jewish faith.

Seeking to forget makes exile all the longer; the secret of redemption lies in remembrance. This oft-quoted Jewish adage surely expresses the idea that faith in God is faith in the work of God in history. Remembrance is experience of the work of God in history. It is the source of faith in redemption. This experience creates hope, creates faith in redemption, in reunification of the divided, in reconciliation. Whoever forgets this experience loses his faith. If we for our part sought to forget what has occurred, instead of remembering it, this would not only be inhuman. We would also impinge upon the faith of the Jews who survived and destroy the basis of reconciliation. We must erect a memorial to thoughts, and feelings in our own hearts.●

A TRIBUTE TO GEORGE FURGALA

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. LIPINSKI. Mr. Speaker, I rise before my colleagues today to call attention to an outstanding resident of the Fifth Congressional District, George Furgala, who recently celebrated his 100th birthday.

George Furgala was born on March 12, 1885, in Austria-Hungary. In 1910, he immigrated to America where he married and settled in Chicago. After numerous occupations, he was employed at R.R. Donnelly and Sons, from which he retired in 1951 after 26 years of service. George and his wife, Felicia, raised three children and were long active in community and religious affairs on the south side of Chicago.

Mr. Speaker, I join with the residents of the Fifth Congressional District in congratulating George Furgala on the occasion of his 100th birthday and extend my best wishes for many years of happiness and success.●

A BILL TO COMBAT CHILD PORNOGRAPHY

HON. JOHN McCAIN

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. McCAIN. Mr. Speaker, today I am introducing legislation that will amend the United States Code to further protect our children from exploitation. Specifically, my legislation will address the area of child pornography.

In the last Congress, we enacted the Child Protection Act of 1984. These reforms have been instrumental in combating the incidence of child pornography. My legislation will add strength to this law, providing additional tools to stem the growth of this heinous crime.

Currently, the pornography industry is capitalizing on a new market—that of video cassette recorders. Those that produce and distribute child pornography have moved their operations underground and have formed interstate links to effectively pervade this lewd market.

My legislation amends title 18 of the United States Code to include offenses relating to the sexual exploitation of children under the Racketeer Influenced and Corrupt Organizations [RICO] provisions.

If the production and distribution of child pornography were included, along with child prostitution, among the offenses defined as racketeering activity, the consequences would substantially affect both the criminal and civil liability of child pornography traffickers. Those who are engaged in a pattern of child pornography distribution as part of a business or other enterprise would be subject to criminal penalties of up to 20 years imprisonment forfeiture of any property acquired as part of that enterprise and a fine of up to $25,000.

By amending the RICO provisions, the victim is afforded further protections and compensation. Currently, child pornography victims have no effective recourse against their abusers either to obtain damages or to prevent circulation of the material in which they appear. Under the change provided by this legislation the victim of a pattern of child exploitation, would have the right to sue their abusers for treble damages plus a reasonable attorney's fee. Additionally, district courts would be allowed to issue injunctions against those who have engaged in a pattern of prohibited conduct. In other words, the courts could prevent nationwide distribution of a child's pornographic pictures.

The second section of the legislation amends the United States Code to prohibit advertising in connection with child pornography. This includes advertisements on where to purchase pornographic material, as well as those that solicit or offer participation in sexually explicit conduct with a minor. This provision would severely restrict market sales, and aid law enforcement officers in tracking those involved with the distribution of child pornography.

Finally, the last section of the bill makes it illegal to transport minors across State lines for the purpose of sexual exploitation. Currently, a commercial purpose is required for a conviction under this statute. This section eliminates the commercial purpose. The very act itself would be punishable. Those that are convicted of this crime may be imprisoned up to 15 years or fined up to $250,000.

At least, 1 million children between the age of 1 and 16 have been sexually molested and filmed for the abuser's pleasure and profit. Let's put an end to this horrendous crime and enact the appropriate legislative measures to crack down on child pornography operators.●

IN HONOR OF CHUCK SCHNEIDER

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. LEVINE. Mr. Speaker, I rise today in honor of Mr. Chuck Schneider, the outgoing chairman of the board of the Western Los Angeles Regional Chamber of Commerce, who has devoted 1 year of service and commitment to both the chamber and the west Los Angeles community.

Under Chairman Schneider's able leadership, the chamber accomplished the following activities:

The name of the organization was changed from the Western Los Angeles Regional Chamber of Commerce to the Los Angeles West Chamber of Commerce.

The logo and corporate symbol were revised to better reflect the new identity.

The on-going business of the organization was carried out with dignity, efficiency, and aplomb.

Chairman Schneider supported the chamber position on political and ceremonial matters by his presence at campaign parties, dinners, rallies, forums, and debates.

He succeeded in fiscal responsibilities by spending a day at the races and returning to Westwood from Santa Anita with more capital than he carried with him originally.

He organized and delivered the culinary aspects of the energy production and conservation committee meetings.

He served as the chamber's official host at mixer parties held during his tenure at various member establishments on the westside of Los Angeles.

He welcomed visiting dignitaries and invited guests to the chamber's annual beautification awards program at the Hotel Bel-Air.

He attended the chamber's "Job-Ops" program at the Century Plaza Hotel and greeted educators, students, and business people to this valuable public program.

He served as master of ceremonies at the Westwood art show.

He organized the South Westwood Boulevard merchants to upgrade the area.

It is a pleasure to bring Chuck Schneider's accomplishments to the attention of my colleagues and I ask that they join me in commending him for a job well done.●

A TRIBUTE TO A LEADING BRONX CITIZEN

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. GARCIA. Mr. Speaker, I would like to congratulate one of my constituents, Mr. Richard D. Gidron.

Mr. Gidron is being honored by the Bronx County Committee for his dedication to the Bronx and its citizens. He has been honored by a wide variety of groups since he settled in the Bronx in 1972. They range from the Boy Scouts of America, the National Conference of Christians and Jews, the Cooley's Anemia Foundation, Man of

the Year awards from the Interracial Council of Business Opportunity, the Bronx Chamber of Commerce, a Humanitarian Award from the Bronx County Society for Prevention of Cruelty to Children to a 1984 Presidential Citation. Another award is nothing new to Dick, but it symbolizes his tireless and continuing efforts to help New York and the Bronx.

He is a successful businessman, owning the second largest—and largest black-owned—Cadillac dealership on the east coast. This dynamic businessman, husband, and father also finds time somehow to involve himself in civic affairs. He is president of the Bronx Chamber of Commerce, and a member of a host of other associations dedicated to improving educational, health, and employment opportunities for minorities. In the past Dick has sponsored a voter registration drive, and he is on the board of such organizations as the NAACP's Finance Committee, Fordham University, and the Bronx Museum, to name a few.

Not one to stand still, Dick is embarking on a new venture: Dick Gidron Ford. This makes him the first black two-car dealer in America. With his past success, this new venture will certainly be a challenge.

Dick is a strong believer in hard work and devotion to family, two precepts that are part of the foundation of our society. I want to extend my warmest congratulations to Dick, and to thank him for all the work he has done to make the Bronx a better place to live and work.●

JUNK BONDS

HON. J.J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. PICKLE. Mr. Speaker, there is increasing concern throughout the country about the explosive growth in the issuance of junk bonds.

In the past, junk bonds were traditionally used as a relatively rare means of raising capital by emerging companies or distressed companies that had no other recourse.

However, in recent years we have seen healthy corporations become highly leveraged through the issuance of junk bonds as a defense against takeovers and there are shell corporations, with little or no assets, taking on huge debts to finance takeover attempts.

After closely examining this issue in hearings conducted by the Ways and Means Oversight Subcommittee, I have introduced House Resolution 2476, the Junk Bond and Greenmail Tax Act, to discourage the use of junk bonds to purchase stock.

In order to further inform my colleagues about the dangers of the current uses of junk bonds, I recommend to them an article by Senator PETE DOMENICI that appeared in the Wall Street Journal this week.

Congress should act on this issue to reduce the threat of disrupting our Nation's financial system.

The article from Wall Street Journal, May 14, 1985, follows:

FOOLS AND THEIR TAKEOVER BONDS

(By Pete V. Domenici)

I have been fascinated by the intensity of the debate on this page over the risks of non-investment grade, or "junk," bonds, particularly in hostile takeovers. Literary flourishes reached a high point with the designation of junk bonds as "swill." But so far the debate has overlooked the two issues that will most likely result in a federal regulatory response.

The first of these is the recent and growing role of federally insured lending institutions and government-backed pension funds in purchasing junk bonds. The 1982 deregulation of financial markets and the Depository Institutions Deregulation and Monetary Act of 1980 were designed to give federally insured thrifts more elbow room in the financial marketplace to meet their commitment to provide home mortgages. Their involvment in the high-stakes game of corporate takeovers has led Chairman Edwin Gray of the Federal Home Loan Bank Board to characterize the thrift's participation as "heads I win, tails the FSLIC loses." Since 1981, more than 1,000 federally insured thrifts have been merged or liquidated.

The second issue that will prompt eventual federal action is the use of junk bonds to circumvent the Federal Reserve's margin requirement (Regulation G). This rule provides that loans for stock purchases cannot exceed 50% of the value of the stock being bought. In the military there is a saying that safety regulations are written in blood. The margin requirement is written in the blood of 1929.

Several of the recent hostile takeovers have made a mockery of the margin requirement. Shell corporations have issued junk bonds to finance stock purchases entirely with borrowed funds. Because there is no functional difference between bonds and loans in this situation, the margin requirement is unjustly circumvented.

I believe that responses by Congress and the Federal Reserve are inevitable. But we need to take care to craft legislation that preserves the advantages of hostile mergers, while limiting the risks of using junk bonds in such takeovers. Accordingly, I have proposed a temporary moratorium on hostile mergers using junk bonds to give Congress and the regulatory agencies time to act.

Opponents of a moratorium, or for that matter, any federal action, have argued that hostile takeovers using junk bonds are a healthy development. This conclusion is based on a three-part argument that (1) history has shown junk bonds are not inordinately risky; (2) the present round of takeover activity will lead to better management and healthier companies, and (3) buying out stockholders with junk bonds is the way the market makes more efficient use of capital. The first two arguments reflect more fancy than fact. The third has some superficial appeal but, under close scrutiny, proves irrelevant to the particular policy issues facing us.

1. *The Risks of Junk Bonds.* The past offers us no guide to the risks of recently issued junk bonds. In 1977, $1 billion of junk bonds was issued. In 1984, the market for junk bonds was more than $15 billion. In the past, these bonds were issued by growth companies or troubled industrial giants such as Chrysler Corp. In contrast, the junk bonds of today are being issued by shell corporations to finance highly leveraged acquisitions. In addition to these dramatic differences in volume, and the quality of the issuer, 80% of these bonds have never faced the test of an economic downturn or a rise in interest rates. Comparing today's explosion of junk bonds with their use in the late 1970s is like comparing World War II with the Civil War simply because gunpowder was used in both.

The recent default of Sharon Steel Corp. on its two most recent payments on $426 million of these bonds and Metromedia Inc.'s decision to sell seven TV stations to service the debt on its junk bonds are timely reminders of the risks involved. Metromedia sold $1.3 billion of junk bonds in two hours only last year, even though the prospectus admitted: "Based on current levels of operations and anticipated growth, the company does not expect to be able in generate sufficient cash flow to make all of the principal payments due on the notes. . . ." It goes on to state, "Based on current levels of operations, the company's cash flow would be insufficient to make interest payments. . . ."

The importance of Metromedia lies in that it is not part of a declining industry, but rather part of the vibrant communications sector. Moreover, the Metromedia sale comes in good economic times, not bad. As for the future, we need only remember the observation of John Shad, chairman of the Securities and Exchange Commission: "The more leveraged takeovers and buyouts today, the more bankruptcies tomorrow."

2. *The Management Smoke Screen.* Talk of improving management is a smoke screen for the raiders' scorched-earth tactics in the energy industry. Phillips Petroleum Co. has more than 70% of its cash flow dedicated to debt service. Its exploration and development budget is down by 32% ($260 million). The last offer from Carl Icahn would have made the company's debt-to-equity ratio 14 to 1 (at 6 to 1 Chrysler came to the feds hat in hand).

By attacking Uniroyal Inc., whose stock has increased fivefold in the past three years, and Unocal Corp., whose cost of finding oil is the lowest of any major oil company ($6 a barrel vs. $14 for Mesa Petroleum Co. and $22 for Chevron Corp.), the raiders further belie any interest in improving management.

Documents unearthed during the Unocal takeover effort and reported in the press give a truer picture of raider intentions. They are looking for targets with two characteristics: strong cash flow and little debt. The quality of management is irrelevant. The court documents also undercut any contention that the raiders are concerned with the long-range health of the target company. In Unocal's case, the raider's plan for spending for exploration and development in the U.S. is scheduled to decline from $850 million a year in 1984 to $100 million a year in 1990. Foreign exploration would drop from $355 million a year in 1983 to zero in 1988. We are speaking not of restructuring, but of liquidation.

3. *Markets and Predators.* An argument with surface appeal contends that buying out stockholders at a premium with borrowed money (substituting debt for equity) frees up stockholders to take their money

elsewhere and put it in industries that will yield a higher return. Just as nature has a role for predators, the argument continues, so the financial jungle has a use for them. The process is not for the squeamish, but ultimately benefits us all. And just because we may not like the personalities involved, whoever said sharks were friendly?

Although flawed—stockholders can sell anytime, not just during a takeover, and much of the economic incentive comes from the tax advantages of using debt rather than putting capital to higher uses—this argument at least has the virtue of describing the motives of the participants.

But despite its descriptive value, this argument is devoid of policy consequences. Specifically:

It does not address whether the taxpayer should shoulder any of the risk of having federally insured institutions participate in corporate takeovers using junk bonds. Prior articles on this page have emphasized the savvy of participants such as the Belzberg family or Saul Steinberg, but not the liability of the taxpayer.

It has no impact on the need to enforce margin requirements. If it does, then proponents of junk-bond-financed takeovers are the ones asking for a major change.

It is also irrelevant to the issue of government intervention. The present takeover contests are being conducted within a long-established, elaborate framework of federal and state laws and regulations with many judges checking to see that every "i" is dotted.

A moratorium on hostile takeovers using junk bonds would give us the time needed to enact the minimal precautionary steps to preclude federally insured institutions from purchasing junk bonds and to scrutinize the present round of takeovers to ensure that the margin requirements are fully enforced. Timely action is needed to reduce the greatest risk of all, the risk to our nation's financial system. For more than five years the Federal Reserve has been navigating through a seemingly endless financial mine field. The debt volcano of the lesser-developed countries could erupt again. Savings and loan associations, as noted earlier, continue to succumb at alarming rates. And the Ohio banking crisis is not fully behind us. Into this fragile situation, junk-bond advocates are urging us to pump unprecedented amounts of high-risk corporate debt. Market theorists love to rhapsodize about the wisdom of markets. But part of this wisdom consists of dealing harshly with fools who believe that the good times are without end.●

ANTIAPARTHEID ACT OF 1985

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. RICHARDSON. Mr. Speaker, I urge my colleagues to support an amendment I will be offering to H.R. 1460, the Antiapartheid Act of 1985 to prohibit the further importation and use in this country of uranium and coal originating in either South Africa or Namibia, a country which is controlled by South Africa.

Mr. Speaker, we all deplore the terrible system of apartheid practiced by the Republic of South Africa. Under that system, black citizens not only are disenfranchised, not only are confined to slums to live, not only are afforded inferior educational opportunities. But also are compelled to work at lower paying jobs and are given little or no chance for meaningful advancement.

The South African policy of inequality is not simply harmful to the citizens of South Africa; it also takes a direct and unacceptable toll on Americans. The apartheid system permits South Africa to produce minerals such as uranium and coal, and to exploit deposits of these minerals, largely through the toil of South Africa's black population. Uranium is mined by virtual slave labor under brutal and unsafe conditions. Sold by a South African Government agency [NUFCOR], transported in secrecy to foreign countries, marked with false labels and shipping orders, owned by a tangle of multinational corporations whose activities are only partially disclosed, and sold to the United States at the expense of the American uranium miner. South Africa's prior history in the 1970's of participating in an international cartel to restrict production and to raise prices has exacerbated the grave condition of the U.S. domestic uranium market today.

As a direct result of South Africa's apartheid system, its subsidies and other policies, about one-third of U.S. imports of uranium now involve material of South African origin. From employment of 20,000 workers 5 years ago, the American uranium industry now employs only 2,000 workers and only a handful of mines remain open. South Africa is also the largest importer of coal into the United States—in 1984 we imported 612,447 tons of coal from South Africa. The United States is rich in coal—I find it unconscionable that we would allow the importation of coal mined in a country whose human rights abuses are known to all, at the expense of the American miner.

We in the U.S. Congress now have an opportunity to right two serious wrongs—to send a clear message to the South African Government that we will not condone their deplorable policies of apartheid and to say to the American miner, we are willing to restrict these imports to save their jobs.

Mr. Speaker, apartheid is a moral outrage and is having a direct and grossly detrimental impact on American workers. My amendment will contribute to correcting this situation and I urge its adoption.

AMENDMENT TO H.R. 1460, AS REPORTED OFFERED BY MR. RICHARDSON OF NEW MEXICO

SEC. 15. BAN ON IMPORTING URANIUM AND COAL FROM SOUTH AFRICA AND NAMIBIA.

Notwithstanding any other provision of law and except as otherwise provided in this Act, the following products of South Africa and Namibia may not be imported into the United States: coal and uranium ore.

Page 5, line 2, strike out "sections 4 and 5" and insert in lieu thereof "sections 4, 5, and 15"; and line 12, strike out "sections 4 and 5" and insert in lieu thereof "sections 4, 5, and 15".

Page 12, line 25, strike out "and".

Page 13, line 1, insert ", and on importing coal and uranium ore from South Africa" immediately before the period.●

RESTON, VA, CELEBRATES 20TH ANNIVERSARY OF ITS FOUNDING

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. WOLF. Mr. Speaker, there is much to celebrate in Reston this coming weekend as we mark 20 years of growth and progress. Today, thanks to its active citizen participation, Reston enjoys a remarkable record of achievement. The cooperative and spirited efforts of its citizens reflect the true sense of community set forth the Reston's founders. It is not only a special time of remembrance of past accomplishments but also a time of renewal and rededication to complete the work and meet the challenges that lie ahead.

As the Representative for Virginia's 10th Congressional District, I take great pride in Reston's accomplishments and I congratulate the citizens of Reston who have made this the model town that it is.

I ask that a Fairfax County resolution be printed at this point in the RECORD.

RESOLUTION

Whereas, Reston, Virginia, a community with a distinguished history, this year celebrates the 20th Anniversary of its founding; and

Whereas, in the 1960's, Robert E. Simon planned and began one of the nation's first contemporary "new towns", pioneering an alternative to suburban sprawl, and attracting world-wide attention as a laboratory for community and urban development; and

Whereas, the innovative concept of Reston was made possible by the Residential Planned Community Zoning Ordinance, adopted by the Fairfax County Board of Supervisors in 1962; and

Whereas, Reston has made and continues to make an important contribution to Fairfax County, receiving numerous awards for excellent design, and serving as a model for a better quality of life through a planned environment offering housing diversity for all segments of its population, providing the County with economic growth through business and commercial interests, and ensuring that abundant cultural and recreational opportunities are available for its residents; and

Whereas, Reston's developers, designers, and residents together embraced and achieved the original humanistic goals set forth by Reston's founder; and

Whereas, Reston successfully embodies a true sense of community, because its actively involved citizens have contributed significantly to shaping their community, the County, and the region; now therefore

Be it resolved that the Fairfax County Board of Supervisors, on behalf of all of the citizens of Fairfax County, does hereby commend Reston, Virginia for its numerous achievements, and does extend their best wishes on the auspicious occasion of this outstanding community's 20th Anniversary.

JOHN F. HERRITY,
Chairman.
ETHEL WILCOX,
Register, Clerk.●

TRIBUTE TO THE 3D INFANTRY DIVISION

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. RAY. Mr. Speaker, last week I introduced legislation (H.R. 2440) that would allow the Society of the Third Infantry Division to erect a monument in memory of its members' fallen comrades.

Organized on November 21, 1917, the 3d Infantry Division arrived in France in early 1918. In July of that year, on the Marne River, the division won its nickname "Rock of the Marne," by holding a 12-kilometer line against heavy German attacks. The 3d Division went on to win six battle streamers during World War I.

Mr. Speaker, the division's record in World War II was just as impressive. Among its honors, the 3d Infantry Division was awarded the Presidential Unit Citation and the French Croix de Guerre with Palm for its action clearing the Colmar Pocket. The 3d Division is also credited with 10 campaigns for World War II service.

Responding again to its call to service, the "Rock of the Marne" engaged in eight campaigns in Korea and, as a result of its courageous efforts, was awarded two Republic of Korea Presidential Unit citations.

After a reorganization of the division into a mechanized infantry, the 3d Division is now stationed in Wuerzburg, West Germany, where it fulfills its mission as part of the frontline shield of NATO.

My distinguished colleague in the other Chamber, Senator SAM NUNN, has introduced identical legislation that will give the Society of the Third Infantry Division the necessary congressional approval to begin the procedure for erecting a memorial in the District of Columbia or its environs. The memorial will be erected at no cost to the Federal Government. Furthermore, the Secretary of the Interior will select a suitable site and approve the design and plans for such a memorial.

Mr. Speaker, memorials honoring the 1st and 2d Infantry Divisions have for some time existed in the District of Columbia. The Society of the Third Infantry Division is very anxious to begin construction of a monument of its own as soon as it gets our authority.

I take pride in offering this measure calling for a 3d Infantry Division memorial honoring the memory of this very deserving unit.●

HOUSE JOINT RESOLUTION 3: A MEASURE TO PREVENT NUCLEAR EXPLOSIVE TESTING

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. BEDELL. Mr. Speaker, on January 3, my colleague and fellow Iowan, JIM LEACH and I reintroduced House Joint Resolution 3—a measure to prevent nuclear explosive testing. Since that time, we have been joined by 145 other Members of the House of Representatives in support of this important arms control initiative, including 24 members of the House Foreign Affairs Committee.

House Joint Resolution 3 represents a sound approach toward bringing the nuclear arms race under control through its requirements that urge the President to request Senate ratification of the Threshold Test Ban and Peaceful Nuclear Explosion Treaties, as well as to propose to the Soviet Union the immediate resumption of negotiations toward conclusion of a verifiable comprehensive test ban treaty.

Despite widespread and bipartisan support House Joint Resolution 3, resistance to its modest objectives were noted during the Foreign Affairs Committee's markup of this initiative. Nevertheless, I am pleased to inform you that yesterday, the committee reported this measure unamended for further consideration by the full House of Representatives.

I do not believe this would have been possible without the support and stewardship of committee Chairman DANTE FASCELL. In my view, Chairman FASCELL was open in his committee's investigation into the merits of House Joint Resolution 3 and quite fair in endeavoring to garner additional bipartisan support for this proposal by waiting for senior minority members to return to the committee from other commitments prior to voting on final passage of House Joint Resolution 3.

For these reasons, I would like to both commend and thank Chairman FASCELL, as well as those members of the Foreign Affairs Committee who cosponsored House Joint Resolution 3, and those Members who comprised the quorum necessary to report this measure to the House.

It remains my sincere hope that we can move on as expeditiously as possible in bringing this important initiative to the floor of the House as soon as possible. In this regard, I would also like to insert Chairman Fascell's opening remarks on House Joint Resolution 3 into the RECORD for the benefit of my colleagues.

OPENING STATEMENT OF CHAIRMAN FASCELL ON HOUSE JOINT RESOLUTION 3 MAY 14, 1985

House Joint Resolution 3, dealing with limiting nuclear weapons testing, urges the President to request ratification of the TTBT [Nixon] and PNET [Ford] and to resume negotiations on a comprehensive test ban.

The resolution also calls upon the President to include any reservations on verification that should be attached to the two treaties.

The same language of House Joint Resolution 3 was passed in the Senate last year by a vote in excess of the two-thirds necessary for treaty ratification [77-22].

This is a proarms control and proverification measure.

Proarms control:

Builds off past arms control efforts of Presidents Nixon and Ford.

Reaffirms the position of every President from Eisenhower to and including President Reagan to work toward a comprehensive nuclear test ban.

Enhances our commitment to nuclear nonproliferation.

Demonstrates U.S. seriousness about bringing an end to the nuclear arms race.

Pressures the Soviets to act on their propaganda "lip service" commitment to arms control.

Enables the Reagan administration to point to progress in arms control.

Proverification:

Ratification of both the TTB and the PNE results in new confidence-building measures and onsite inspections never done before by the two superpowers.

Assessing Soviet compliance with the TTB and the PNE is easier and more reliable because of unprecedented exchanges of information and technical data before and after nuclear explosions.

The PNE provides unprecedented onsite access to sites of explosions.

The exchanges of data and other technical information flowing from the ratification (otherwise not obtainable) will increase U.S. confidence in verification assessments especially on yield estimations and help to enhance U.S. confidence of Soviet compliance with an ultimate comprehensive test ban treaty.

In short, this is a modest but concrete proarms control and verification enhancement measure that complements the administration's stated objective to bring an end to the nuclear arms race.●

OLDER AMERICANS MONTH

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. CLINGER. Mr. Speaker, Older Americans Month is upon us again, giving Congress and the American people an opportunity to pause and re-

flect on the importance of senior citizens to society and the Federal programs which assist them in a number of ways.

The most publicized of these programs provide tangible, cash benefits to senior citizens, while perhaps the least known but most effective, afford seniors the opportunity to work in their communities on a volunteer basis or for a small salary. Such employment through the Retired Senior Volunteer Program [RSVP] and the Senior Community Service Employment Program [SCSEP], not only stimulate local economic development but instill a sense of respect and self-worth to older Americans. Moreover, local community agencies and organizations have only to gain by employing the older workers; their insight and experience are invaluable resources that should not be wasted.

I would also like to insert into the RECORD, a letter addressed to me from the McKean County RSVP, located in the 23d District, which, on its own, is an outstanding testament to the program and is a true tribute to Older Americans Month.

THE MCKEAN COUNTY RSVP,
April 23, 1985.

Hon. WILLIAM F. CLINGER,
House of Representatives, Washington, DC.

DEAR MR. CLINGER: Because the months of April and May have been designated as "National Volunteer Month" and "Older Americans Month" respectively, we would like to update you about the Retired Senior Volunteer Program (RSVP) in McKean County. This organization for senior service to America matches interest and abilities to demonstrated community needs so volunteer stations can extend the work that they perform.

RSVP is an outgrowth of decades of effort by gerontologists, private agencies, and government groups to address the continuing needs of retired persons in America for useful activity. In 1969 the Retired Senior Volunteer Program was created in an amendment to the Older Americans Act. Now under the national aegis of ACTION, RSVP promotes the volunteer contributions of time and energy of more than one-third of a million senior citizens. The program develops opportunities for older people to share their expertise, abilities, and skills to serve their communities at virtually no taxpayer cost because members do Volunteer their services.

Locally, the McKean County Retired Senior Volunteer Program is sponsored by the North Central Pennsylvania Office of Human Services. In 1984 nearly 600 residents of the county were active in RSVP projects. Thirteen to fifteen thousand hours are donated on the average each quarter to a total of 43 sites. These valuable "people hours" enrich our lives immeasurably and enhance the quality of life county-wide.

RSVP involvement provides a vital service to non-profit private and public agencies and organizations, which in turn, have an impact on most of us throughout our lives. This assistance is especially welcome today as funding levels are stable or decreasing in the public sector. Volunteer hours help these groups maintain their current levels of service to the community and to McKean County. Nursing homes; hospitals; public libraries; the American Red Cross; the American Heart Association; and the American Cancer Society currently benefit from the RSVP program. The Bradford State Health Center; the McKean County Historical Museum; community senior centers; the Salvation Army Food Bank; and the University of Pittsburgh at Bradford are also among the 43 RSVP stations throughout the county.

It is an American Axiom that we take care of our own and that everyone should pitch in to help. Because of the RSVP commitment here, volunteers provide service of which many larger communities and counties are envious.

The Advisory Council of the McKean County Retired Senior Volunteer Program is proud of the dedication of Director Michele Angevine and her staff, but especially of the volunteers themselves for their efforts in making RSVP an outstanding local success.

We trust that we can count on your continued support of this worthwhile program.

Thank you.

Sincerely,

RUDY A. ANDERSON,
Advisory Council.●

SPECIAL FORCES GROUP OF FLORIDA

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. MARKEY. Mr. Speaker, I would like to bring to the attention of my colleagues an exercise undertaken by elements of the 11th Special Forces Group.

This exercise was undertaken in honor of Duff Matson, a World War II veteran distinguished both by his military service and by his service to the community.

I would like to commend the participants in this exercise, particularly Vincent Arnone, of Malden, MA. I would also like to have printed in the CONGRESSIONAL RECORD an article published by Malden This Week which describes the activities of the 11th Special Forces Group in Florida.

LOCAL RESIDENTS TRAIN WITH SPECIAL FORCES IN FLORIDA EVERGLADES

During a recent training exercise elements of the 11th Special Forces Group (Airborne) parachuted into the Everglades of Florida at 2 a.m. as part of "Operation Everglades '84". Their drop zone was located at Immokalee Airport in Collier County.

Training included automatic weapons firing with state-of-the art weaponry, a reptile demonstration by Joe Wasilewski, a nationally known reptile expert, a lecture on fighting knives by world renowned knife maker Bill Moran, a wilderness survival trail and training in the handling of poisonous snakes.

Present to observe the training was Ltg William P. Yarborough who designed the parachutist badge, more commonly called "jump wings" some four decades ago. Yarborough also designed the parachute jump boots and was one of the founding fathers of the Special Forces.

The training took place on property owned by Duff W. Matson who served as a World War II paratrooper and combat bodyguard to Mg Robert T. Frederick who commanded the 1st Special Service Force, (more commonly called the "Devil's Brigade"), during that war. Matson is one of the men on whom the movie the "Dirty Dozen" was based and is also the subject of an upcoming book entitled "The Devil's Bodyguard".

Several awards and presentations took place during the weekend to include the renaming of the parachute drop zone so that it will forever be recorded in the Assault Zone Availability report of the U.S. Air Force as Matson Drop Zone as a tribute to this legendary man. Malden native and former resident Ltc Richard A. Nazzaro was presented his silver oak leaf by Ltg Yarborough in front of the men. It was the same oak leaf formerly worn by Ltc Donald C. Van Roosen who was the officer that nominated Nazzaro for a direct commission from Sfc nearly two decades ago.

Other participants included Ltc Frank M. Wallen, Deputy Commanding Officer of the 11th Special Forces Group (Airborne), Ltc John Mills, Group Surgeon, Maj. Ed Hines, C.O. of B Company and his executive officer Cpt Fred Jones, Sgm Jim Santos, 1st Bn., Msg Frank Shaw, A Company, Sfc Vincent W. Arnone, and Ltc Donald C. Van Roosen.

Also in attendance were Don Lassen, Editor/Publisher of the Static Line, a worldwide publication catering to the airborne and Reverend Riley Short who served as a civilian minister to families of the 101st Airborne Division during the Vietnam War.●

FIRST AID EMERGENCY TEST

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. RAHALL. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues and the country the accomplishments of four outstanding young people from my district in West Virginia. These four students from Cabell County recently won the first place prize in the national competition in the first aid emergency test sponsored by the Red Cross. They will be honored at the Red Cross National Awards Banquet on May 21, 1985, in Pittsburgh.

On behalf of the U.S. Congress, I would like to offer my congratulations to Kelli Bradshaw, Kim Finley, Jason New, and Joe Pritt. They are all students at Ona Elementary School, in Ona, WV. We in West Virginia are filled with pride in the hard work and dedication shown by these four students. They exemplify the best that we have to offer in southern West Virginia.●

TRIBUTE TO THOMAS S. DUNMIRE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues the announced retirement later this month of a friend to many of us in this Chamber, Mr. Thomas Dunmire. As many in this body know, Tom has served ably and with dedication as minority consultant for territorial issues on the Committee on Interior and Insular Affairs.

Since joining the House Interior Committee 12 years ago, April 3, 1973, Tom has provided intelligent and sound counsel enabling Congress to formulate effective and successful policies in governing America's trust territories. Tom has played a critical role in the promotion of political, social, and economic development in the Pacific and the Caribbean. Tom has served as a continuous link between this body and the Departments of State, Defense, and Interior. Additionally, his diplomatic skills have been utilized as liaison between Congress and the governments of Puerto Rico, U.S. Virgin Islands, American Samoa, Guam, Northern Marianas, Palau, the Marshalls, and the Federated States of Micronesia. In this capacity, Tom has excelled in providing detailed analyses of diversified Federal and territorial budgets, policies, and projects.

Tom Dunmire established a distinguished record of service to the Nation even before his tenure in the Congress. After graduation from the U.S. Military Academy at West Point in 1952, he rose to the rank of lieutenant colonel in the U.S. Army. During his military service, Tom attended the Army War College, the Naval Post Graduate School, the Armed Forces Staff College, and the U.S. Army Language School. His intelligence, hard work, and loyalty are reflected in the awards he received: the Legion of Merit, the Bronze Star, and a Commendation Ribbon with two oak leaf clusters.

While serving in the military, Tom performed many important roles with great success. He served as a foreign liaison in Germany, utilizing his German language skills. Tom also served as a legislative liaison, research and development project officer, and authored several official publications about military construction, management, and nuclear engineering.

In addition to his military education, Tom also obtained a masters degree in international affairs in 1966, and a masters degree in public administration in 1978, from George Washington University.

I know we will all greatly miss Tom, his hard work, sound advice, and friendly nature. Along with my colleagues on the House Interior and Insular Affairs Committee, I would like to take this opportunity to thank Tom for his assistance and hard work these many years. I wish him the best of luck in all future endeavors.●

THE "JUSTICE" DEPARTMENT

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. HUBBARD. Mr. Speaker, CBS News reported Tuesday night that FBI agents allegedly "masterminded" a scheme in which burglars were to steal millions of dollars of coal-moving equipment in eastern Kentucky, with the goods to be used to try to trap "corrupt coal operators."

CBS said the plan never was finalized, but according to Louisville attorney Bart Adams, who apparently represented one or more of the FBI operatives, the FBI promised one man immunity for the planned thefts.

"I couldn't believe it," attorney Adams said earlier this week. "I was astounded by the entire thing," he added.

Wednesday night, in the second part of a series titled "The Kentucky Crimes," CBS News reported that the FBI discussed with Delane "Red" Colvin the possibility of stealing coal-moving equipment in eastern Kentucky as part of a scheme to "trap corrupt coal operators."

The scheme involved 3 to 5 million dollars' worth of equipment.

CBS News reported Monday that Colvin and a man who appeared on camera, but who was not named, alleged that Larry Long, head of the FBI's Lexington, KY, office, instructed them to carry out a burglary at Cummins Diesel Co., a truck repair firm in Jeffersontown—near Louisville.

The two men said in the report that the FBI "commissioned" five thefts in Kentucky as part of the sting operation.

Long, 40, who has headed the Lexington office since 1980, has refused to comment on the allegations.

In a hidden camera interview, CBS-TV correspondent Steve Young confronted Long:

YOUNG. I can't believe that the FBI commissions crimes.

LONG. That's your interpretation.

YOUNG. How else can you interpret it?

LONG. I don't know.

The FBI has announced it is reviewing the CBS allegations, but Bureau spokesmen have declined to comment on the charges.

CBS and newspaper accounts in Kentucky describe Delane "Red" Colvin as "an ex-convict."

CBS quoted a coal operator, identified as "ex-convict Rodney Glynn," who said: "Red Colvin and I would be authorized to go out and steal equipment and operate this with legitimate funds."

CBS-TV didn't say why the coal equipment scheme was canceled, but CBS did say the Cummins Diesel Co. break-in and theft operation was carried through in its entirety.

The U.S. Justice Department's response to all this? Bill Cheek, public affairs agent for the FBI in Kentucky, says: "An inquiry is presently being conducted in regard to the allegations. Because of the ongoing investigation, the FBI cannot discuss the matter."

This, of course, is in sharp contrast to the news conferences FBI spokesmen have held in the past to eagerly discuss allegations against elected officials in an effort to damage and/or destroy their careers.●

THE REVENUE ENHANCEMENT AND PROTECTION PROGRAM TAX ACT OF 1985

HON. BRAIN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. DONNELLY. Mr. Speaker, I am today introducing, along with my Massachusetts colleagues Mr. CONTE and Mr. FRANK, the Revenue Enhancement and Protection Program Tax Act of 1985.

The Internal Revenue Service estimates that approximately $90 billion in Federal tax revenues owed is lost to the Treasury annually because of taxes never reported or paid. Another $30 billion in taxes the IRS has assessed, but never collected, must be added to this Federal "tax gap." This tax gap has grown 300 percent since 1973. Tax evasion is a widespread, pervasive problem.

Unfortunately, the Internal Revenue Service compliance and enforcement programs have decreased during this time period. Individual audits are down 29 percent, and corporate audits down 51 percent. Our voluntary compliance system, once a model to the world, is clearly not working, and that is unfair to the millions of taxpayers who do pay their taxes. Further, the $120 billion in revenues the IRS is unable to collect represent sums that could significantly reduce the almost $200 billion Federal deficit the Nation faces.

The Federal Revenue Enhancement and Protection Program, or REAP, that I propose is a comprehensive effort to attach the tax gap, and recover some of that lost revenue. It is

based on the highly successful Massachusetts REAP. In 1983 Massachusetts embarked on a program that increased State revenues by 4 percent over the previous year, exclusive of economic growth and personal income increases. The Massachusetts REAP combined increased staff and resources for enforcement, tougher penalties for tax evasion, extensive publicity, high visibility seizures, and a one-time only, 3-month amnesty. At the Federal level, if such a program were to result in even a 3 percent increase in Federal revenues, that would mean a revenue increase of approximately $20 billion. Twenty billion dollars of deficit reduction, without raising taxes or cutting existing programs.

The Federal REAP provides: A one-time, 3-month tax amnesty. Individuals would be liable for any back taxes they owe plus interest, and would be granted immunity from any civil penalties or criminal prosecution. Once these taxpayers have had the opportunity to "wipe the slate clean," the IRS will begin a program of improved, tough tax enforcement. Among the compliance provisions are: A requirement that 10 percent of the revenues generated by the amnesty will go to IRS compliance programs; a prohibition on the award of Federal contracts or licenses to taxpayers who have delinquent accounts; authorization for the IRS to turn seriously delinquent accounts over to private collection agencies; authorization of 2,500 additional IRS compliance personnel for each of the next 3 fiscal years; a directive to the IRS to extensively publicize its amnesty, compliance, and enforcement efforts; a revision of the Internal Revenue Code penalties for tax evasion, now widely scattered throughout the Code, to make them more uniform and rational.

The time is right for enactment of a Federal REAP Program. It will set the stage for tax reform. The amnesty portion wipes the slate clean for taxpayers who want to come forward and pay what they owe, but have not done so for fear of severe penalties. Effective, tough compliance requirements will restore the faith of honest taxpayers who have understandably felt cheated due to widespread reports of tax avoidance. Moreover, the REAP is proven effective: the Massachusetts experience demonstrates it can result in significant deficit reduction without raising taxes or cutting programs. I urge my colleagues to join me in working toward its speedy enactment.●

CHRYSLER SAVES $58 MILLION IN BATTLE AGAINST HEALTH-CARE WASTE

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Ms. KAPTUR. Mr. Speaker, the billions of dollars spent each year on health care and the ever-increasing cost of that care have become a major topic of national debate. However, we have begun to see some success in reducing and holding down costs when employers, employees and health care providers work together and take concerted and determined action to do something about health care expenditures.

The Washington Post recently highlighted the experience of the Chrysler Corp. in bringing down the projected 1984 health care outlays for its employees by $58 million. I want to share that article with my colleagues. I believe it illustrates very well what can be accomplished when employers and employees take on the joint responsibility to control health care costs and when competition is injected into the health care procurement process.

[From the Washington Post, Apr. 29, 1985]

CHRYSLER SAVES $58 MILLION IN BATTLE AGAINST HEALTH-CARE WASTE

(By Spencer Rich)

Chrysler Corp., faced with the need to sell 70,000 cars a year just to pay health insurance premiums for workers and retirees, chopped $58 million out of its health-care bills in 1984 by an aggressive campaign against waste, overcharges and outright fraud by doctors and medical institutions treating Chrysler workers, according to a report from former secretary of Health, Education and Welfare Joseph A. Califano Jr.

Califano, now a member of the Chrysler board and chairman of its committee on health care, said Chrysler's experience—which reduced projected health-care outlays from $460 million to $402 million in 1984, a $300 savings for each worker and retiree—shows how "an aroused private sector" is "the key to health-care cost containment."

The Chrysler experience, as detailed by Califano in a report prepared for delivery today in Kansas City, Mo., to the Health Insurance Association of America, is almost a textbook example of how American companies, in a revolutionary new development in health care, are beginning to take a hard look at what they are paying for in health services.

Nationwide, firms now pay about $90 billion a year in health-care premiums for their workers, a major factor in overall business costs, as Califano detailed for Chrysler.

Califano said health-care inflation has burgeoned to the point where Blue Cross/Blue Shield has become Chrysler's single largest supplier.

He said "more than $530 of the cost of every car we sold in 1984" went to health-care premiums to private insurers and Medicare.

It was in this general context that Chrysler chief Lee Iacocca in 1981 brought Califano in to do something about health costs, warning him that their growth alone might block revival of the ailing company.

Working with Iacocca and then-United Auto Workers president Douglas A. Fraser, Califano set out to find out what Chrysler was getting for its health-care money.

"The first thing we discovered was that we didn't know," Califano said. Chrysler, which had simply paid premiums for insurance and not looked behind the premium charges, "had no idea what it was buying or from whom.

"We didn't know who the efficient suppliers were. We had no quality controls. We didn't have the slightest idea what health care our employes needed."

Working with Blue Cross and the union, Chrysler took a "30-month snapshot of our health-care purchases," cataloguing each treatment for each employe, how much was charged, what tests were given, how long patients stayed in hospital and the like.

"What we found was appalling," he said. For example:

Chrysler, at a cost of $12 million a year, was paying for an average of five lab tests a year for every person it insured, although a large percentage never needed any tests at all—meaning that doctors were ordering excessive numbers of tests.

Chiropractors each year were routinely increasing diagnostic X-rays an average of 15 percent.

Blue Cross/Blue Shield was paying dermatologists twice as much annually as it paid the average practitioner.

For no apparent reason, average daily costs at six Detroit hospitals used by Chrysler workers varied from $452 to $608, and costs for the average length of stay ranged from $3,028 to $6,077.

Similar variations were found for doctor charges, X-ray charges and lab tests. A team of physicians examined hospitalization for nonmedical low-back-pain treatment and found that two-thirds of admissions and 85 percent of the total hospital days were medically inappropriate.

The average Detroit ophthalmologist was charging $2,000 for a 20-minute cataract operation, which means he would receive more than $1 million a year for performing three operations a day for four days a week, 42 weeks a year. This is grossly excessive, Califano said, when the average charge for serious abdominal surgery requiring four to five hours, and much riskier than cataract surgery, was only $1,500.

There were cases of outright fraud—a chiropractor selling "fake injury reports to auto workers, and billing our insured for phony treatments, X-rays and unnecessary lab tests. He charged $20 for phony work-excuse slips." One worker obtained 51 prescriptions for more than 6,000 Valium tablets.

With this information in hand, the Chrysler health-care committee took action:

In the company drug plan, where workers paid $3 for any prescription and Chrysler paid everything above that, druggists routinely filled the prescriptions with expensive brand-name drugs. No more. Now the company payment covers only the cost of using cheaper generic drugs in the prescription. If the employe insists on a brand-name drug, he or she must pay the extra charge. This plan saved $250,000 the first year.

Chrysler asks employes to check all their health bills to make sure there are no mistakes and overcharges: To encourage cooperation, it splits any savings with the workers.

Chrysler pushes outpatient surgery where medically appropriate. Savings in 1984 were $2 million.

Chrysler gives employes the option of joining a group health plan for dental services, where Chrysler negotiates a fixed premium in advance and there are no added charges or yearly maximums. This saved $3 million in 1984.

Hospitals were confronted with findings about inappropriate admissions for low-back pain and asked to study them; in the next 6 months, such admissions were cut 64 percent.

Hospitals in Detroit also were confronted with data showing Chrysler mothers were kept in hospitals an average of 3.8 days for childbirth, compared with an average of 2 days in California. As a result, hospitals cut stays above 3 days by 67 percent.

For salaried employes, but not union members so far, all nonemergency, non-maternity hospitalizations are now prescreened by a second, independent medical expert, to make sure the visits are necessary; and lengths of stay are similarly monitored. Second opinions are also required for surgery for all employes. Savings: $32 million.

Looking back over the experience, Califano said, "The most important lesson is that hard-negotiating buyers, who treat health care like the other products they purchase, can change the system—and we are only beginning to realize the benefits of competition."●

COLLAGEN IS NOT DERIVED FROM HUMAN SOURCES

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. CONTE. Mr. Speaker, for almost 2 years now, the cosmetic industry has been battling an astounding and unfounded rumor that aborted fetus materials are being used in some cosmetic products. Both the Food and Drug Administration and the industry trade group, The Cosmetic, Toiletry and Fragance Association, have pursued every accusation regarding the issue since this gruesome rumor began circulating. Not one shred of evidence has been uncovered to support these charges. Nor is there any evidence that any cosmetic company condones such a practice.

The confusion lies with the word "collagen," which is listed as an ingredient on some cosmetic products. While collagen exists in humans and animals, the collagen now used by cosmetic companies is connective animal tissue and is not derived from any human sources. In response to consumer concerns, CTFA is now taking steps to clarify the nomenclature for collagen materials, which it is hoped will help put an end to these rumors.

This controversy was the subject of a recent collumn of Ann Landers. With her typical punchy and direct style, she scotched the rumor and denounced its purveyors. I would like to share with my colleagues the relevant portion of her column, which appeared in the April 28, 1985, edition of the Washington Post.

[From the Washington Post, Sunday, Apr. 28, 1985]

(By Ann Landers)

Dear Ann Landers: I am desperate to know the truth and I am sure you will be able to track it down. Please check with everyone who might be knowledgeable on the subject. It has kept me up nights.

I have been told by three people that collagen is made from aborted babies. My sources are an evangelist, a beauty consultant, and my neighbor who works in a hospital.

I've spent hours in stores where cosmetics are sold, checking the ingredients printed on the jars and bottles. Collagen is used in many creams, shampoos and conditioners. It must be very expensive because the prices of the products that contain collagen are awfully high.

It breaks my heart to think that the little ears, hands and feet of murdered babies are being ground into powder to make women more youthful-looking. Is this true?—Sleepless in Florence, AL.

Dear Florence: There is not a shred of truth to that story. Collagen is used in some cosmetics. It is hydrolyzed animal protein that comes from leftovers at the slaughterhouses. The evangelist, the beauty consultant and your neighbor are spreading unadulterated garbage. Tell them so and get some sleep.●

THE RETIREMENT OF MR. LELAND C. AYERS

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. MOORHEAD. Mr. Speaker, I would like to call to the attention of my colleagues in the House of Representatives the retirement of Mr. Leland C. Ayers after 12 productive years as an elected official in the city of Burbank.

In Burbank, the name of Leland Ayers is synonymous with dedication and hard work, with efficiency, success, and achievement. His political accomplishments are numerous. Elected in 1973, he is the only man in the history of Burbank to be elected to three 4-year terms. He has served two terms as mayor and he has done so with fairness and distinction. In addition to his city council duties, Mr. Ayers has served his city and its residents as a member of the Burbank Redevelopment Agency, the Housing Authority, and the Burbank-Glendale-Pasadena Airport Authority.

His involvement with Burbank goes beyond public office. He has devoted considerable time to the Burbank chapter of the Red Cross; he has served on the board of directors of the St. Joseph's Medical Center. He is a member of the Elk's Club, the Verdugo Hills Council of the Boy Scouts of America, and the Exchange Club of Magnolia Park.

Mr. Speaker, I am delighted to take this moment to pay tribute to a good friend, an able public servant, and a devoted community leader. I wish him the same success, the same rewards, and the same satisfactions in retirement from public life as he realized in it. On behalf of myself and my constituents in Burbank, I extend to him our thanks and gratitude for his gifts of time, effort, and dedication.●

THE WISDOM OF ROBERT MOSES' THOUGHTS ON WESTWAY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. GUARINI. Mr. Speaker, in 1974, master builder Robert Moses prepared a proposal for the restoration of New York's west side highway entitled "West Side Fiasco." At that time, when alternatives for the west side highway were first considered, cost estimates ranged from $46 million to repair the existing structure to $1.2 billion for the "Outboard Alternative," or Westway as it is currently known.

Moses, in his proposal, evaluated all of the alternatives and dismissed both the "Outboard Alternative" and an "Inboard Alternative" plan (estimated to cost $950 million) because of their enormous costs. "What," he claims, "even if we were rolling in money would be the rationale for spending such vast sums? Competition among several States for limited Federal transportation funds is intense. Can you picture Western and Southern Congressmen standing mute while the U.S. Department of Transportation approves the spending of such monstrous sums to build a 4-mile expressway section on the Hudson representing all the Federal aid in a Rocky Mountain State for decades?"

While the figures in his proposal are no longer accurate, the logic still holds. Today we are looking at a potential cost of $4 billion—$10 billion for the 4.2 mile Westway highway and landfill. New York's share of Federal interstate funds for Westway alone is greater than the combined shares of interstate funds for 12 other States. If, Westway's cost was unthinkable in 1974, when we had a deficit of $6.1 billion, how can we now, with a deficit over $200 billion, sanction such extravagance?

Moses claims that the evaluation of the proposed west side alternatives was slanted and that it favored "the most costly (alternative) and hence the least likely to be built."

Considering that the Federal Highway Administration estimates a nonlandfill highway could easily be constructed for under $1 billion dollars,

Westway, with its tremendous landfill, is indeed a costly alternative. Moreover, because of its magnitude and the complexity involved in filling in more than 200 acres of the Hudson River, Westway will take more than 10 years to complete and could exhaust its sources of funding.

Moses recognized the need for a new highway on the west side of Manhattan but he questioned the wisdom of building a road tunneled through landfill in the Hudson River. "Why," he asked, "move out into the river or bury it underground?"

Like Robert Moses, my colleagues and I, who have introduced legislation to prohibit Federal expenditures for the Westway landfill, fully recognize the need to construct a new highway on the west side of Manhattan. We also agree that there is little wisdom in eliminating more than 200 acres of the Hudson River for a 12-lane superhighway which would cost more than $1 billion a mile. If New York decided not to construct Westway, as it is presently proposed, it could exercise its trade-in option and receive interstate trade-in funds to construct a non-landfill highway and provide aid to its crippled mass transit system.

Robert Moses concluded, "my mind is staggered by the demand of a 90-percent handout at Washington for a racetrack on the west side of Manhattan."

I, too, am stunned by the thought of commiting the Government to financing 90 percent of the $10 billion Westway landfill and real estate venture. This is an injurious use of Federal dollars which could jeopardize the public's faith in our ability to make sound fiscal, environmental, and transportation policies and would divert scarce Federal resources from programs with a national scope.

Robert Moses was a well-respected builder and architect. Though his proposal was prepared in 1974, his thoughts ring clear and true today. We should heed his words and act quickly to prevent the expenditure of Federal funds for the Westway landfill, a project which is totally beyond reason.●

A SALUTE TO OUR GED GRADUATES

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. BARTON of Texas. Mr. Speaker, last Friday night, I had the opportunity to address a group of 67 adults in Waco and share their feelings of pride in being awarded their general educational development certificates.

Several of these students at the Heart of Texas Community Education Cooperative in Waco were residents of the Sixth Congressional District. It was remarkable seeing a 73-year-old lady getting the equivalent of her high school diploma and then a 19-year-old sharing that same sense of accomplishment. One man in the program, and I applaud his perserverance, had been working on his certificate for 5 years.

These 67 are members of our largest graduating class of 1985—an estimated 450,000 adults across the Nation will get their GED certificates this year.

In the last 13 years, more than a half million Texans have earned their GED certificates and the passing rate in Texas is 84 percent, well above the national average of 73 percent.

At this time of the year when many of us are taking part in high school and college commencements, we should not forget this very important program and recognize those receiving their GED certificates for the hard work and accomplishment this represents.●

NATIONAL TOURISM WEEK

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. SCHUETTE. Mr. Speaker, as a member of the House Travel and Tourism Caucus, I am proud to endorse National Tourism Week beginning on May 19, 1985. America's breathtaking beauty and abundant natural resources are for all to share and experience. It is only fitting that we celebrate the nationwide importance of the travel and tourism industries.

The travel and tourism industry contributes immensely to the economic well-being of the State of Michigan. Her residents benefit from the economic and employment opportunities generated by the thousands of visitors that frequent our great State. I am proud to say that tourism really does work for Michigan. Each year tourism employs thousands of Michiganites; it is the fifth largest employer in the State. Tourists spend millions of dollars each day on travel and tourism services, and that means millions for the local communities. And, tourism generates Federal, State, and local tax revenues. Tourism is a vital element in Michigan and one that we should support and encourage.

I commend the individuals who have worked so diligently to promote National Tourism Week, particularly those in my home State of Michigan.●

MOUNT ST. HELENS: FIVE YEARS LATER

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. BONKER. Mr. Speaker, this Saturday marks the 5-year anniversary of the explosive eruption of Mount St. Helens, WA. The May 18, 1980 eruption has left area residents with more than memories of a dramatic natural event. It has left us with a mixed legacy of problems and progress.

The immediate effects of the eruption were dramatic and devastating. The less obvious long-term effects are equally severe: Heavy sediment erosion from a huge volcanic debris avalanche clogs rivers and creates a continuing flood threat and sediment disposal problems; and the threat of a breakout of Spirit Lake that could bury downstream communities under 40 feet of debris.

The news on efforts to remove these hazards is mixed. The good news is that the threat of the Spirit Lake debris dam bursting has been all but eliminated by the construction of a safe outlet for the lake.

The bad news is that after 5 years and several studies—all with similar conclusions—the sediment problem—the Nation's worst—remains unresolved. Tens of millions have been spent on stop-gap measures, providing neither the safety, nor the cost-effectiveness of a permanent solution. Authorization for a permanent solution has been included in the supplemental appropriations bill approved by the Energy and Water Subcommittee. I urge my colleagues to support this provision so that the continuing threats of the Mount St. Helens disaster can be eliminated in a sensible manner.

THE PROBLEMS: ONE DOWN, ONE TO GO

Spirit Lake: The good news.—When Mount St. Helens erupted with the power of a large H-bomb, it tore off the north side of the mountain. The debris literally buried Spirit Lake.

A new Spirit Lake took form behind the unstable debris dam. As it filled with water, experts realized the lake was a timebomb. Spirit Lake had no secure outlet. If the debris dam were ever overtopped or breached, one of the worst disasters on record could result.

The U.S. Geological Survey, projecting a worst case breakout of Spirit Lake, estimated that communities more than 30 miles downstream could be buried under 40 feet of mud. Even areas upstream on the Cowlitz River could be covered to a depth of 10 feet by a Spirit Lake mudflow. The Columbia River would be blocked for months

or years and commerce in the region would be severly restricted.

When the hazard became apparent, a state of emergency was declared, and the Army Corps of Engineers began pumping to keep the lake at a safe level. While pumping is an effective interim measure, it costs taxpayers over $3 million a year. But it bought the corps the time to design and build a permanent outlet for Spirit Lake.

As of April 27, Spirit Lake has a safe outlet. The corps has bored an 8,500-foot tunnel through the solid rock of Harry's ridge to South Coldwater Creek. This tunnel has finally defused the Spirit Lake timebomb.

Sediment: Time to stop the problem at the source.—The eruption of Mount St. Helens blasted 3 billion cubic yards of debris into the north fork of the Toutle River, creating one of the biggest debris avalanches in history. The debris avalanche is a giant sandbox over 15 miles long, up to 1¾ miles wide, and an average of 150 feet deep.

With each heavy rain and snowmelt, the debris avalanche erodes, sending millions of cubic yards of silt and sand into the Cowlitz and Columbia Rivers. An estimated 28 million cubic yards of sediment erodes from the debris avalanche every year, enough to fill 2 million double-axle dumptrucks.

To avoid flooding and to keep the Columbia River navigation channel open, this sediment must be dredged out of the rivers. This is a risky and expensive way to deal with the sediment problem.

Dredging alone does not provide downstream communities with adequate flood protection. Even if dredging of the river channel provides reasonable protection at the beginning of the water year, storms or mudflows can decrease channel capacity and increase the threat of flooding with the next event.

Since the eruption we have been lucky. The region has not had the size storm, or the massive runoff that could cause flooding. Twice in the 1970's we had such storm events.

Stopping the problem at its source is the safest and most cost-effective way to solve the sediment problem, according to three major studies in the last 2 years. Each one identifies a debris dam, or single retention structure [SRS], at the foot of the debris avalanche as the best solution, based on cost, safety, and impact on fish and land. Until the SRS is constructed, taxpayers are footing the cost of interim dredging, and communities downstream remain at risk.

Dredging alone is creating another problem: So much material has been removed from the rivers that we are running out of economical disposal sites. Once these sites are filled, the cost of dredging will skyrocket. On the Columbia, this could take place in just a few years at present rates of sedimentation. Upstream control is needed to keep the Cowlitz and Columbia banks from becoming giant dredge spoil dumps.

The final feasibility report for the sediment solution is currently under review by the Office of Management and Budget. The administration's recommendation is expected in the near future.

The price tag for a permanent sediment solution is substantial. The SRS will cost approximately $200 million with another $100 million for downstream dredging over the next 50 years. But the cost of doing nothing is much greater. The time to act is now.●

MILITARY RETIREMENT TINKERING

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 16, 1985

● Mr. BENNETT. Mr. Speaker, I call to the attention of the Members of the House the following article in the May 16 Washington Times written by Assistant Secretary of the Air Force Tidal W. McCoy. He is in charge of Manpower, Reserve Affairs and Installations there. I believe all Members of Congress would want to read this analysis of what the Department of Defense bill on procurement would do in the field of retirement benefits.

I expect to offer an amendment to strike this provision from the bill and I think the following statement by Secretary McCoy shows many of the reasons why this should be done:

MILITARY RETIREMENT TINKERING

(By Tidal McCoy)

Legislation has been introduced which would limit the sum each service/component may obligate for basic pay and military retirement accrual for FY 86, and which directs the secretary of defense to submit legislation changing the military retirement accrual cost by $4 billion. The Air Force "share" of this reduction would be $1.056 billion.

H.R. 1984, introduced April 4 by Rep. Les Aspin, also stipulates that in determining the cost (and savings) DOD must use the same actuarial assumptions and methods used in developing the retired-pay accrual cost for the FY 86 budget.

In the April 4 CONGRESSIONAL RECORD, Mr. Aspin says "this direction is intended to prevent the department from attempting to obtain the savings from some other source, from simply changing the actuarial assumptions or methodology, or from structuring a situation in which the Congress may have no alternative but to increase the appropriations categories late in the year."

The RECORD goes on to state "The changes could grandfather everyone, or no one, or some. It is a matter for the services to decide." Finally, Mr. Aspin indicates that if the department submits legislation to achieve the required savings, Congress would have "no incentive" to get involved in the specifics of the proposal.

On May 2, the House Armed Services Committee on Manpower and Personnel voted to accept Mr. Aspin's bill as an amendment to the FY 86 DOD Authorization Act, with the proviso that all current retirees and active-duty members would be grandfathered under the old system.

The purpose of H.R. 1984 is to force a structural change in the military's retirement system. Since it requires savings in the accrual costs, it is not designed to reduce near-term government outlays, which would reduce the budget deficit. Nor is it designed to provide substantial reductions in accrual costs beyond FY 86. This is because Mr. Aspin's bill demands that the accounting procedures for FY 86 are based on "entry age normal" costing.

This means that the accrual costs for FY 86 assume that all retirement liabilities for service by all members during that year are based on the retirement benefits provided to new entrants. Thus, any changes made to the military retirement system to achieve savings of $4 billion for costing purposes in FY 86 are required to assume that the changes apply to new entrants and all members on active duty.

Mr. Aspin suggests that all members can be grandfathered from any changes or not—but he has mandated that the FY 86 accounting procedures will provide that accrual savings will be calculated assuming no one is grandfathered. A neat trick indeed.

The accrual costs for FY 87 and subsequent years, however, are based on a weighted normal cost procedure. This means that the accrual costs will reflect the estimated liabilities based on the retirement benefits that actually apply to different classes of members on active duty. For example, members who entered active duty prior to Sept. 8, 1980, have their retired basic pay based on final basic pay rather than the highest 36 months of basic pay (Hi-3 averaging). Those who will retire under Hi-3 will receive about 13 percent less life-stream retired pay. This will be reflected starting in FY 87; it is not reflected for FY 85 or FY 86 (for these years everyone on active duty is assumed to be under Hi-3, since that is the system that new FY 85 and 86 entrants will receive).

Owing to the personnel subcommittee's actions to grandfather current retirees and members, the implication of this is that mandated rules for changes in FY 86 (which cut $4 billion from the FY 86 accrual costs) would only save about $300-350 million in FY 87. By FY 90 the accrual savings would still be only about $2 billion.

Thus when we combine this new cut with Hi-3, we see about a one-third reduction in the value of retirement since 1980. It is inconceivable that this would not have a substantial impact on readiness. Even if we grandfather all members on active duty to protect them from these changes, we'll eventually have to pay the price in increased active-duty pay, increased bonuses, increased accession and training costs, and, very likely, decreased military readiness.

If members of Congress expect that Mr. Aspin's proposal will save $4 billion each year right away, they will be severely disappointed. They may even view this as nothing but an accounting trick, and seek further cuts in the system to reduce accrual (budget) costs further.

Indeed, if Congress decides that the $4 billion FY 86 savings must appear in the immediate subsequent years, the problem is severe. The only way such cuts can realistically be made in FY 87 and beyond is to

deny grandfathering to all or a large portion of the current force. Even if we only grandfather those members beyond the first term of service, we estimate we would have to cut benefits by 45-50 percent (above and beyond the Hi-3 impacts) for first-terms and new entrants in order to reach the $4 billion target. It is unlikely that our No. 1 retention incentive, the military retirement system, would continue to work after such drastic cuts. Such cuts would mean a retiree could expect to receive about 15 percent of total pay after 20-years' service—not too fat.

If current retirement benefits were decreased an additional 22 percent beyond Hi-3, we would expect the resulting retention decline to be at leaast as severe as FY 79-80. As an example of the impact, if FY 79-80 rates were to recur, we would lose, in only one year, an additional 20,200 enlisted members and 3,345 officers. The accession and training costs to replace these would run $1.2 billion, and we'd be replacing them junior people with little or no experience, resulting in decreased military readiness and war-fighting capability. These added costs to the Air Force would entirely offset the Air Force portion of the directed retirement savings.

We believe this scenario is extremely conservative. Tampering with the retirement system to this degree is bound to produce emotional and psychological impacts that, when added to the economic impacts, would easily lead us to repeat our poorest retention years since the beginning of the all-volunteer force. The actual outcome might well be worse, particularly if cuts of 45-50 percent are made as outlined above in order to achieve large near-term accrual savings beyond FY 86.

It appears to some that $4 billion is going to be saved in defense costs by Mr. Aspin's proposal. This is not the case beyond the year of phony assumptions (FY 86) that have been written into H.R. 1984. If the Congress, upon realizing that $4 billion is not going to be saved in successive years, then demands that similar savings be achieved in the out-years (an obvious hope of some in the Congress), either a 22.5 percent cut in retirement benefits to all current active-duty members and new entrants would be necessary, or an approximately 50 percent reduction in the retirement benefits of all new entrants would be required.

Consequently, to save the kind of money Mr. Aspin talks about, we would have to degrade either the current force or the future force severely; a sad day for the American fighting man, particularly when the adverse impacts of changing the retirement system would only raise costs substantially in other budget areas.

It may look good to shift the costs of military retirement to other budget accounts, particularly since the shift is modestly well-disguised to the laymen, but the turmoil and confusion will hurt all those in uniform, and that, in turn, will hurt the nation's security.●