SENATE—*Monday, December 9, 1985*

The Senate met at 10:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Let us pray.

Praise the Lord of my soul. O Lord my God, thou art very great; thou art clothed with honor and majesty.—Psalm 104:1.

Mighty Lord our God, in this brief moment at the start of another day—another busy week—we acknowledge Thee and our need of Thee. We worship Thee, not because Thou dost need our worship, but because we need to do it. Our humanness requires it. If we do not worship Thee, we will worship someone else, something else. We satiate our bodies, starve our souls, and wonder why we are so short on spiritual resources. We have been reminded that there is a "God-shaped vacuum" in everyone which only God can fill. "Thou hast made us for Thyself O Lord, and restless are our hearts until they repose in Thee." (St. Augustine.) Receive our worship Lord and grant that we may face the vicissitudes of this week in the strength and wisdom of the God we serve. In the name of Jesus whose whole purpose was to please Thee. Amen.

RECOGNITION OF THE MAJORITY LEADER

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

Mr. DOLE. Mr. President, thank you.

SCHEDULE

Mr. DOLE. Under the standing order, the leaders have 10 minutes each followed by routine morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

Following routine morning business, we will resume consideration of House Joint Resolution 465, the continuing resolution. Rollcall votes can be expected throughout the day. It is our hope—only a hope—that we might complete action on the continuing resolution today.

Let me indicate that we could be in the last week of the first session of the 99th Congress; we could not be in the last week of the first session. There are still five outstanding major pieces of legislation that must be completed. The farm credit bill, which will pass the House today, we are prepared to move on, or go to conference, or whatever may be required.

The farm bill is in conference now. It is my understanding, based on weekend reports and visiting with certain Members, that the debt ceiling extension with the Gramm-Rudman-Hollings amendment is near completion, and there could be a vote on that as early as Wednesday. The continuing resolution has passed the House, and is now on the Senate floor. So it is our hope that we could be in conference sometime tomorrow on that.

That leaves the reconciliation conference report. As I understand it, there are a number of so-called subconferences where they are in effect negotiating their differences. I guess the point I would make is that there is a lot of progress being made.

So it is not impossible to complete the work of the Senate this week. That would be including, I assume, a portion of the weekend. But much will also depend on the House schedule because they have the tax reform bill this week. That will take a couple of days. That may interfere with some other matters that we need to dispose of.

Mr. President, we are hopeful but not certain.

BIRTHDAY OF SPEAKER O'NEILL

Mr. DOLE, Mr. President, in this season of holiday cheer and, if you'll forgive me for using the word, reconciliation, it is my pleasure to rise to salute a colleague on his birthday. It has been both a privilege and an education to work with him during the past year. There are some around this town, and you know who you are, who regard him as the embodiment of Santa Claus, political as well as personal. I, however, regard him as one of a kind, an authentic legend, and one of the more decent men in Washington. His life here spans more than three decades, during which he has become a household word, a familiar figure in the morning headlines, and a daily maker of history. For all that, he remains a man from North Cambridge, the proud son of a laboring father who was preoccupied on the day of his son's birth with a dispute involving Harvard University and its army of grasscutters.

The boy grew up with his father's example before him. He grew into a spokesman for others who worked hard, practiced their faith, loved their families, served their country and usually voted the straight Democratic ticket. I grew up in a town very different from North Cambridge. But the values I was taught to believe in hardly differed from those of the other boyhood—save the practices of election day. Be that as it may, I am proud to call TIP O'NEILL my friend and colleague. And I can only hope he'll say something half as nice about me in his book.

Mr. President, I am honored to join with so many others in wishing a happy birthday to Speaker O'NEILL. We may be on opposite sides of the Hill—and the aisle—but we stand together in our veneration for this institution and the traditions it embodies. May his memory inspire us all, long after the man himself retires to his word processor. The only thing about TIP I won't miss come next year is his annual rendition of "I'll Be With You in Apple Blossom Time." But if Mrs. O'Neill can listen to it, more power to her. And may she go on hearing it for many more springtimes to come.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. HECHT). The distinguished minority leader is recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that I may reserve the remainder of my time throughout the day.

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

Mr. BYRD. I yield back the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 11 a.m. with statements therein limited to 5 minutes each.

CAN A SUPERPOWER MILITARY BUILDUP MAKE THE WORLD SAFER?

Mr. PROXMIRE. Mr. President, there has been some progress in nuclear weapons arms control over the past 25 years or so. There has been virtually no progress in limiting conventional weapons by the two superpowers. Now the United States and the Soviet Union may be on the verge of genuine progress on real conventional arms control. Or they may not be. It is quite a paradox. The December 5 New York Times relates two clashing contradic-

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

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tory stories. Consider what appeared on page A14 in the New York Times on December 5, and then what appeared on the immediately following page, A15. On page A14 the New York Times reported the following encouraging news on conventional arms control agreements. Here was the headline: "New NATO Offer On Troop Cut Due." The subhead then read: "It Drops Demand That Two Sides First Agree on the Totals Now in Place in Europe." Here was encouraging news, until the reader moved to the very next page to see the following headline: "NATO Talks Stress Nonnuclear Arms." The subhead made the direction crystal clear. Here it is: "Strong Consensus is Reported on Need to Push Buildup on Conventional Forces."

So which way are the superpowers going on conventional arms? Will there be a mutual reduction in forces? Or will there be a buildup? The answer is both. Is that possible? It is. Will it bring a reduction in the prospect of a superpower war? It may. How can this be? Here is how: The NATO reduction in forces applies strictly to personnel. NATO and the Warsaw Pact have been engaged in talks on conventional force reductions for 12 years without significant progress. In order to begin progress NATO has proposed to remove 5,000 American troops from Western Europe and 11,500 Soviet troops from Eastern Europe. The numbers are not much. They do constitute a first step in the right direction. Far more important is something else. It is this: NATO also proposes a verification proposal that would reinforce such an agreement. NATO has proposed a remarkably strict verification. It has called for checkpoints to monitor the departure of troops. It has also asked that there be 30 onsite inspections a year to make sure that no additional troops have been sent in. That is right. I said 30 onsite inspections a year. Not 3; 30.

Mr. President, this proposal may have extraordinary significance. What an excellent precedent for nuclear weapons agreements. Here is precisely the kind of vigorous and constant on-the-spot inspection that could break the crucial objection of the administration to negotiating an end to nuclear testing. It could also apply to treaties restricting production and deployment. It is true that the Soviets have rejected such inspections in the past. If we succeed in persuading the Soviets to agree to this verification procedure on conventional forces, the principle as a precedent could greatly advance nuclear weapons arms control.

Now how do we square this encouraging new NATO posture on limiting conventional forces in Europe with the article on the next page of the New York Times that reports what appears to be the exact opposite, that is that NATO has reached "a high degree of consensus on the need to renew efforts to build up its conventional forces"? This report contends that the member countries of NATO in Europe now accept the argument of NATO Supreme Commander Gen. Bernard Rogers that a bigger and stronger conventional force will make it unnecessary for NATO to resort to nuclear weapons in response to Soviet aggression in Western Europe. With this in mind, in the last 2 years, NATO has engaged in a buildup in conventional ammunition stocks. There has been a hardening of aircraft shelters. There has been a doubling of $7.8 billion in the amount spent on airfields, satellite depots, and pipelines. There has been increased spending on new-technology conventional weapons that will permit NATO to engage in "deep strike" tactics far behind the adversary's front lines.

Could NATO reconcile this major weapons build-up with negotiations to reduce military personnel on both sides? Conceivably it could. Would it be arms control? Certainly not in the sense that there is a reduction in military strength.

The NATO buildup is obviously aimed at increasing NATO's military strength. We can certainly expect that if the Soviets should agree to a military personnel reduction on both sides as NATO has also proposed, the Soviets, like NATO, will increase the weapons strength of their forces. Nevertheless, it is undeniable that this kind of strengthening of conventional arms by NATO in Europe will certainly help to reduce the risk that a superpower clash in this power keg of central Europe will set off a nuclear war within days if not hours. It will give both sides a little precious time to think, to talk, to negotiate and to stop the ultimate catastrophe. Here is a vivid contradiction of the usual arms control purpose of mutual reduction of military strength. It may in this case serve the cause of peace.

GENOCIDE SPEECH: MEMORIAL CANDLES

Mr. PROXMIRE. Mr. President, a most extraordinary memorial service was held on October 13 at the Kennedy Center, where the Dallas Symphony Orchestra, under Eduardo Mata, presented the east coast premiere of Benjamin Lees' Symphony No. 4, "Memorial Candles."

The Dallas Symphony had commissioned the work to commemorate the 40th anniversary of the end of the Holocaust.

Lees, one of America's foremost composers, first began to think about the project during his visit to Israel in 1981. There he spoke with survivors, visited the Yad Vashem memorial, immersed himself in the literature of the Holocaust, and searched for the meaning and spirit of the country.

Early on, Lees decided that he had to include in his work the powerful words of the Nobel Prize-winning poet Nelly Sachs, a survivor of the Holocaust. She had been born in Berlin in 1891 and escaped in 1940 to Sweden, where she lived until her death in Stockholm in 1970. In Sweden, she earned her living by translating Swedish literary works into German. Her first major volume of poetry, "In the Habitations of Death," was published in East Berlin in 1947. Subsequent works included "Eclipse of the Stars" (1949), "And No One Knows How to Go On" (1957), "Flight and Transformation" and "Glowing Enigmas" (1965). Her poetry has been described as "the foremost poetic expression of the Nazi Holocaust" and "the only poetic testimony which can hold its own next to the speechless horror of documentary reports."

Sachs' poetry had a profound effect on the composer Lees. In the finished product, Lees inserted the text of Sachs' moving verses "That the Persecuted May Not Become Persecutors," "Someone Blew the Shofar," and "But Who Emptied Your Shoes of Sand."

Lees used the texts to create imagery and looked to the orchestra to provide the source of power for symphony No. 4. He felt something else was needed, however. The missing piece was the violin, traditionally the "soul" instrument of Central and Eastern Europe. World-class violinist Pinchas Zukerman was chosen to perform the short solos and obbligatos.

The performance of "Memorial Candles" was an emotionally stirring experience for those in attendance. Its inspiration and intensity cry out to the present day.

"Memorial Candles" was commissioned to commemorate the 40th anniversary of the Holocaust. Ratification of the Genocide Treaty would also be a fitting commemoration. Need we wait another 40 years?

THE MYTH OF THE DAY

Mr. PROXMIRE. Mr. President, the myth of the day is that door-to-door chauffeur service improves the productivity of senior Government officials.

Now here is a beltway myth, if there ever was one. While this myth has been developed and perpetuated by self-interested bureaucrats long envious of private sector perks, I can think of few Americans outside the Washington beltway who would buy this one for a minute.

It is easy to understand its allure inside the beltway. After all, the limo and chauffeur are the ultimate ego trip, the supreme sign of success that

shouts, "Here comes Mr. Big! Here is a guy who has really made it."

Of course, the devotees of this myth would never admit to motives so crass. Time and again, Congress hears the lament, "My time is so precious. I'm terribly overworked and this service permits me to be more productive by doing business while I commute."

Mr. President, I am sure that no one in this Chamber will be surprised by my holiday response to such tomfoolery, "Bah! Humbug!"

But what is surprising is when a Federal agency, particularly one as staid as the Justice Department, echoes these same sentiments.

That is just what they did in a little-known 1978 memorandum from the Justice Department's Office of Legal Counsel to the Carter White House.

Ridiculing the justification that chauffer service "conserves the valuable time of senior officials by permitting them to work while being transported," the Justice Department noted that such an interpretation would make the law prohibiting door-to-door chauffeur service virtually a "dead letter." Without a doubt, "There is hardly a senior official to whom this rationale would not, in fact or fancy, apply".

The Justice Department found "nothing in the text, background or prior interpretation of the law which supports a reading so contrary to its plain meaning." A position I have argued for well over a decade.

But that's not all. The Justice Department opinion goes on to offer a series of radical suggestions. For example, "A senior official may lengthen his or her working day, if necessary, by coming earlier, leaving later, and living closer to the office." And I would add to that list, the public transportation system; You can work in a bus or on the Metro subway, and, if you require more privacy, you can work in the back of a cab.

As the Justice Department memorandum concludes so aptly, "Using government transportation instead is a matter of personal convenience." A conclusion reaffirmed in a series of rulings by the Comptroller General of the United States, beginning with his landmark ruling in 1983.

Mr. President, the tens of millions of Americans who miraculously manage to get themselves to and from work without the aid of a taxpayersupported car and driver have never bought this myth. Now it's time that we destroy this myth inside the beltway as well.

MEDICAL MALPRACTICE REFORM

Mr. NICKLES. Mr. President, today I rise to cosponsor S. 1804, the Federal Incentives for State Health Care Professional Liability Reform Act of 1985, introduced by Senator HATCH on October 29 of this year. After careful consultation with the physicians in Oklahoma, I have come to the conclusion that Federal action is needed to address the medical malpractice crisis affecting every State and every sector of medicine.

Medical malpractice litigation has increased exponentially in recent years. Claims against physicians have risen from 3 claims per 100 doctors a year prior to 1978 to 8.6 claims per 100 during the years 1978-83. The average settlement, under $5,000 in 1979, has skyrocketed to $330,000 in just the last 6 years.

All of this has a cumulative economic effect on the cost of health care. According to the recent American Medical Association report, the threat of malpractice litigation has contributed to over $15 billion in defensive medical practices, much of which may be viewed as medically unnecessary. These costs are passed on to the patients through increased insurance premiums.

In October of this year, I wrote to the doctors of Oklahoma and asked for their imput on what actions, if any, should be taken by the Federal Government to curb the costs of medical malpractice litigation and awards. So far, I have received over 200 responses. There is almost complete consensus that the costs of medical malpractice litigation and awards, both to physicians and patients, have grown at such an alarming and prohibitive rate that some steps need to be taken at the national level to turn current trends around.

Dr. Ray V. McIntyre of Kingfisher, OK, serves on the board of directors of the Oklahoma Physicians Liability Insurance Co. He confirms that the malpractice problem is not just limited to States like New York and California. It has hit Oklahoma, as well. In 1980, Oklahoma had an average of 15 malpractice claims per month. Five years later, that average has grown to 60 claims per month. Statistically, every year one in five physicians in Oklahoma will be sued.

The especially hardest hit with suits is obstetricians-gynecologists. About sixty percent of all practicing obstetricians-gynecologists have been sued for malpractice. Twenty-five percent of Florida's obstetricians-gynecologists have stopped delivering babies. There is a tremendous risk involved in maintaining a delivery practice. This was eloquently expressed by one doctor in Oklahoma:

> One of the terrible situations with which I am personally involved as a pediatriction nearing retirement at the age of 71 is that the statute of limitation on each newborn runs for 19 years. If I retired today, I would not be free of liability until age 90. As a matter of fact, only two years ago a multimillion dollar suit, far above my insurance was filed against me by a 19 year old man whom I treated as a two pound premature baby. He was blinded by oxygen required to save his life. Only luck saved me in that his attorney could not find an expert witness to testify against me, Certainly a jury would have awarded a blind man a big award, although my choice was clearly between allowing the baby to die or try to save him and take a chance on blindness.

Because of the large rural populations of Oklahoma, we are at risk of losing all obstetricians-gynecologists services in parts of our State. Many of the doctors are just not willing to take the risk of being financially wiped out with one suit. Clearly, this is a serious problem, particularly for women in rural Oklahoma and other States faced with no one to deliver their children.

The bill that I am cosponsoring, S. 1804, has the distinct advantage of maintaining State jurisdiction over medical malpractice law and litigation for all cases. Rather than establishing any kind of a national system for resolving malpractice claims, this bill encourages States to reform their own laws with the "carrot approach"—the promise of Federal funds. Rather than usurping State law and getting the Federal Government totally involved in the business of regulating malpractice activities, States would make changes on their own.

Although this approach does allow States to maintain control over malpractice, I don't usually support the concept of using Federal dollars to marshal States toward actions which are deemed desirable by the Federal Government, particularly when faced with the deficit that is plaguing Uncle Sam. However, I believe that significant reforms in State malpractice law will be dramatic in bringing down the cost of health care. Since the Federal Government pays about one-third of all the Nation's bills for health care, a limitation on malpractice awards is in the best interest of consumers and payors, including the Federal Goverment. If the costs of defensive medicine are near $15 billion, then reducing the incentives for this could be significant. Sentiments of Oklahoma doctors ran similar to this one:

> As a staunch Republican, I have to see the Federal Government become involved in the health care delivery system. However, I believe the malpractice situation in this country is in the crisis state. As an Orthopedic Surgeon, I now tend to view every single patient as a potential malpractice suit and this results in numerous additional tests, and even consultations that under ordinary situations would not be warranted. . . . In short, I believe that this problem may well need to be handled at the Federal level.

Under this legislative proposal, States would receive $2 million the first year and $1 million for each of 2 more years if they make the following four changes in their laws governing malpractice suits, as well as some administrative changes.

First, require that awards over $100,000 be paid out over a period of time in installments, rather than a lump sum delivery.

Second, require awards to be offset by compensation received from other sources like insurance reimbursements.

Third, limit noneconomic damages—pain and suffering—to $250,000.

Fourth, limit attorney's contingency fees in the following manner:

Settlement/award	Attorney's fee
Under $50,000	Not more than 40 percent.
$50,000 to $100,000	Not more than $20,000 plus ⅓ of the excess over $50,000.
$100,000 to $200,000	Not more than $36,667 and 25 percent of the excess over $100,000.
Over $200,000	Not more than $61,667 plus 10 percent of the excess over $200,000.

It is my hope that the reforms contained in S. 1804 will achieve a more appropriate balance between two important goals. First, we need to maintain a system that allows patients who have been injured, either through negligence or bad results to receive just compensation for the harm that they have incurred. Second, we need to cap the spiraling growth in lawsuits and awards that are jeopardizing the availability and affordability of medical care for more and more people. I believe that S. 1804 represents a step in the right direction on both counts. I look forward to working with Senator HATCH in the Labor and Human Resources Committee on this issue.

CHESAPEAKE AND OHIO NATIONAL HISTORIC PARK

Mr. MATHIAS. Mr. President, I commend the Appropriations Committee for ensuring that emergency funds are made available to the Park Service to repair the damage done to the Chesapeake and Ohio National Historic Park by the recent flood.

It is estimated that the Park Service will need about $10 million to repair the damage fully and to restore the canal to its former state, and $2 million of that is needed in emergency funds to stabilize the structure and to prevent further erosion of this irreplaceable natural resource through the winter. The continuing resolution provides authority to the Park Service to borrow from other programs to finance the immediate needs and provides assurance that the Park Service will be reimbursed by the committee through a supplemental appropriations bill for any resulting shortfall.

Fortunately, there were no serious injuries or deaths along the canal. Much credit is due to Park Service staff for their quick and decisive response to this calamity and the many volunteers who assisted.

Although damage to the Washington metropolitan area was relatively light, the flooding caused serious damage to the C&O Canal. Only 40 miles remain open to bikers and hikers. The situation is urgent not only from a visitors' standpoint but from a physical standpoint as well. The C&O Canal is a delicate natural resource and it erodes rapidly. We must take the necessary preventive measures now to keep it from deteriorating further. As long as the towpath is not restored, every new rain will compound the problem.

This swift action by the committee comes as a welcome relief to me. As sponsor of legislation to establish the C&O National Historic Park, I am greatly concerned about the present condition of this historic link with the past. The cost of any delay, even until next year, would be high.

The C&O Canal is an exceptional public resource. The canal offers a breadth of natural assets unequaled anywhere. The towpath, starting a few steps from the urban streets of Georgetown, proceeds up the Potomac Valley through the rugged slopes of the Alleghenies. No other park can boast such scenery, wildlife, and history so accessible to millions of Americans. In its 184 miles, the canal capsulizes the Potomac Valley's growth, its commercial hopes, its enduring natural values, and its great human appeal. Envisioned by President John Quincy Adams as a "great central chain of union" between the eastern seaboard and the West, the canal is one of the finest examples of our Nation's canal-building era and its impressing engineering feasts.

Legislation to protect and preserve the canal and towpath was signed into law in 1971. It took the concentrated and collective efforts of many citizens, legislators, and government officials to rescue the canal and make this legislation a reality. We cannot afford to allow the canal to slip back to the state of disrepair it was in before the Federal Government made its commitment. The immediate release of funds to meet the current needs will ensure that this will not happen.

I urge my colleagues to approve the Senate Appropriations Committee's action on this important matter.

A TRIBUTE TO THE REV. THEODORE NEWMAN

Mr. HEFLIN. Mr. President, my home State of Alabama recently lost one of its outstanding religious leaders when the Rev. Theodore R. Newman of the American Methodist Episcopal Church passed away at the age of 80.

Reverend Newman's 54 years of ministerial service began when he was first licensed to preach in 1929, and was assigned to the Bethel AME Church. In that post, where he began with a small church of only seven members, his work was so inspirational and outstanding that he was awarded the honor of delivering the annual sermon at the next annual conference.

During the early 1930's, he went on to serve at Selma's Ward Chapel AME Church, the St. Mark AME Church of the Bessemer District, and the Ward Chapel AME Church of Prattville. During this period, he was also ordained as a deacon in the ministry, and later as an elder, the highest ministerial order in the AME Church.

In 1936, Reverend Newman was assigned to the Washington Chapel AME Church at Tuskegee Institute, AL, where he would remain for 13 years. During his tenure, a number of improvements in the church were made, leading to its recognition as one of the outstanding churches in the Ninth Episcopal District. The church was also twice accorded the honor of hosting the AME annual conference.

After leaving the Washington Chapel Church in 1949, Reverend Newman was named presiding elder of the Anniston District, where he served 3½ years. He later served the Union Springs District before being assigned to the Opelika District in 1953. It was another 30 years, in 1983, before Reverend Newman requested that he be granted supernumerary status in order that he might leave the active roster of presiding elders.

Born in Henry County, AL, in 1905, Theodore Newman received his bachelor of arts degree from Selma University. Since then, he has been awarded two honorary degrees—the doctor of divinity and the doctor of literary law.

Mr. President, I have been an admirer not only of Reverend Newman, but also of his son, Theodore R. Newman, Jr., who today has built an outstanding reputation as a judge on the court of appeals for the District of Columbia. I offer my condolences to Judge Newman and to his mother for their recent loss.

I ask unanimous consent that "Celebration of Life," the funeral service for Reverend Newman be printed in full in the RECORD.

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

THE CELEBRATION OF REV. THEODORE ROOSEVELT NEWMAN FROM BIRTH TO ETERNITY

(*"Go ye therefore, and teach all nations, baptizing them in the name of the Father, and the Son, and the Holy Ghost."*—St. Matthew 28:19)

With love and respect we have come to celebrate the life of an humble servant of God, who came by the way of the cross leading to God and eternity.

Fifty-four years of illustrious service in the ministry of the African Methodist Episcopal Church began for Rev. Theodore R. Newman when he was licensed to preach and was assigned to the pastorate of Bethel A.M.E. Church (a mission charge in 1929) in Selma, Alabama. He became a part of the Selma District, Central Alabama Conference with Presiding Elder E. L. Martin, adopting him as his son in the ministry.

As a dynamic, devoted and self-sacrificing minister, he took up the post of this pastorate in the Lord's Vineyard and brought new life to the disenchanted small flock of seven members while instituting an active youth program. His first report to the annual conference, which was held at St. Paul A.M.E. Church, Mobile, Alabama, showed an increase in dollar money and won him the honor of preaching the annual sermon. Bishop Robert A. Grant was the Presiding Prelate.

He was assigned to the pastorate of Ward Chapel A.M.E. Church, also at Selma, Alabama from 1930 to 1932. His encouragement, as a leader, inspired many members of this church and especially the late Reverend W. H. Harris. When only a child at the age of twelve, Reverend Harris was appointed Dollar Money Secretary of the charge.

During the Central Alabama Conference at the Emmanuel A.M.E. Church, Mobile, Alabama in 1931, Reverend Newman was ordained a Deacon in the ministry. While serving at the pastorate of the Cahaba Circuit, 1932-33, he was named to carry out the term of Presiding Elder E. E. Martin who had passed on into enternity.

Under the leadership of Bishop Grant, Reverend Newman was ordained an Elder, the highest ministerial order in the African Methodist Episcopal Church, at the 1933 Central Alabama Conference which was held at Samuel Chapel A.M.E. Church, Prichard, Alabama.

His next charge for two years was at Saint Mark A.M.E. Church on the Bessemer District of the West Alabama Conference with the late Reverend G. R. Polk as the President Elder.

The last appointment received from Bishop Grant was to Ward Chapel A.M.E Church at Prattville, Alabama in November 1935. This church was on the Prattville District with Reverend H. M. Walker as Presiding Elder. At this pastorate his dedicated services were felt immediately. Great improvements were made in the parsonage and the church.

Bishop Sims saw a vision of hope for the future in the devout and dedicated leadership of Reverend Newman and decided that he was the minister needed for Washington Chapel A.M.E. Church at Tuskegee Institute, Alabama. At the Bethel A.M.E. Church, Andalusia, Alabama in 1936, Bishop Sims assigned Reverend Newman to this charge.

For thirteen years he remained at this pastorate, serving as a loyal, faithful and dedicated pastor. New improvements began with the renovation of the parsonage. In the church, improvements were made also. Some of them were: the digging out of the basement; the addition of restrooms; brick veneering of the church; redecorating of the sanctuary; the addition of new pews, pulpit chairs (which are presently in use) and the purchase of an organ. A small library was included for the children. The spiritual membership and financial growth of the church increased greatly.

The local church entertained the Annual Conference twice—once under Bishop E. Ward Nichols and once under Bishop Sherman L. Greene.

At the close of his tenure, Washington Chapel A.M.E. Church was recognized as one of the outstanding churches in the Ninth Episcopal District and in the Tuskegee Community.

The eight-year tenure law became effective at the General Conference in May 1948. In October 1949 at the East Alabama Conference held at Washington Chapel A.M.E. Church in Tuskegee Institute, Alabama, Bishop Sherman L. Greene appointed Reverend Newman as Presiding Elder of the Anniston District where he served three and one-half years. For six months he served the Union Springs District. Bishop Isaiah H. Bonner assigned him to the Alabama Conference held at Sylacauga, Alabama. During this tenure he served under Bishops Huey Robinson, Vinton Anderson and Philip R. Cousin.

In 1983, at St. Luke A.M.E. Church at Reynolds Newman of Henry County, Alabama on April 8, 1905. He passed into eternity on November 10, 1985 at 12:10 p.m. at Tuskegee, Alabama.

In the shadows of the twilight years, when health began to fail him we remember him as a vigilant shepherd caring for his flock as a pastor; a leader who had the ability to serve effectively small congregation as well as large ones; a towering giant who inspired many whose paths were fortunate to cross his; a leader who believed in the dignity of work as he labored as a painter, a lover of flowers and vegetable gardener, a leader who kept in touch with the masses and tried to instill in each individual that "Only what you do for Christ will last."

He leaves to cherish his memories: devoted wife, Ruth Louise Oliver Newman; a loving son, Judge Theodore R. Newman, Jr., Washington, D.C.; two brothers: J.D. Newman, Campbellton, Florida and J.B. Newman, Abeville, Alabama; one sister, Rosa Marie Newman Boyd, Cleveland, Ohio; a devoted nephew, Conrad Newman, Union Springs, Alabama among a host of caring nieces and nephews; a daughter-in-law, Mrs. Gloria Sulton Newman, Washington, D.C.; a sister-in-law, Mrs. Eva Newman, Campbellton, Florida; and other relatives and friends.

Let us rejoice and give thanks for this servant of God's life. ". . . Death is not said . . . it's time for elation."

A TRIBUTE TO ARTHUR FINCH

Mr. HEFLIN. Mr. President, I was saddened recently to learn of the passing of Arthur G. Finch, a longtime postmaster of Red Bay, AL, and a man for whom I held a great deal of personal admiration.

Mr. Finch was a native of Prentiss County, MI. After serving 4 years in the U.S. Navy, he first moved to Red Bay in 1931 as a distributor for an oil company. Three years later, Mr. Finch joined the Red Bay Post Office, where he would become an institution.

In 1944, President Roosevelt named Arthur Finch acting postmaster, and the next President Truman made the appointment official. Mr. Finch remained as postmaster until his retirement in 1972. During his career, he was recognized by the U.S. Postal Service for his work in training new postmasters throughout the Southeast. This is but one example of the great esteem in which he was held.

Mr. Finch's involvement in the Red Bay community went beyond his work at the post office. A lifelong Democrat, he was elected alderman at the young age of 26, and later served as the city's recorder. In addition, he was a member of the Red Bay Civitans and Lions Club, a past president of the board of the local hospital, and a past master of the Red Bay Masonic Lodge.

Mr. President, I first met Mr. Finch many years ago when he was a member of a church where my father was minister. I recall that my father had the greatest of admiration for Mr. Finch's Christian spirit and charity, and I came to know him as a truly fine example for everyone with whom he came in contact.

Mr. President, I express my deepest and most sincere personal sympathy to his widow, Mrs. Gladys Finch, his three sons, Arthur, John, and James, and the remainder of his family.

I ask unanimous consent that an article from the Florence Times Daily be printed in the RECORD.

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

[From the Florence (AL) Times Daily, Nov. 21, 1985]

SERVICE SET FOR ARTHUR FINCH

RED BAY.—The funderal for Arthur G. Finch, a longtime postmaster of Red Bay, will be at 2 p.m. today at First United Methodist Church, Red Bay, with the Rev. Brown O'Quinn officiating. Burial will be in Hillcrest Memorial Gardens, Deaton Funeral Home, Red Bay, directing.

He died Tuesday at his residence.

He was a native of Prentiss County, Miss., the son of Felix Braxton and Saretha Denson Finch. He was educated in Prentiss and Tishomingo County, Miss., served four years in the U.S. Navy and came to Red Bay in 1931 as a distributor for Pan American Oil Co.

He joined the Red Bay Post Office in 1934, was named acting postmaster in 1944 by President Franklin D. Roosevelt and appointed postmaster by President Harry S. Truman in 1945. He retired in 1972. He was recognized by the U.S. Postal Service for his work in training new postmasters in Alabama, Mississippi and Tennessee, and by the U.S. Department of the Navy for his support of that department while he was postmaster. He was a member of the National Postmasters Association.

He was a Democrat, was elected alderman in Red Bay at the age of 26 and served as recorder of the city. He was a past president of the Red Bay Hospital board of directors, past-master of Red Bay Masonic Lodge, a member of Red Bay Civitians and Lions Club, a supporter of the Boy Scouts of America and a member of First United Methodist Church, where he served on the Board of Stewards and was Sunday school superintendent.

Survivors include his wife, Mrs. Gladys Waldrep Finch, Red Bay; sons, the Rev. Arthur G. Finch Jr., Birmingham, John W. Finch, Washington, D.C., James D. Finch, Atlanta, Ga.; sisters, Mrs. Lois Brown, Little Rock, Ark., Mrs. Ethel Hester, Guin; brothers, J.D. Finch, Iuka, Miss., Curtis Finch, Camden, Ark.; four grandchildren; two great-grandchildren.

TRIBUTE TO CHARLIE BROOKS

Mr. HEFLIN. Mr. President, on one wall of the reception room of my office there are several editorial car-

toons which have been drawn about certain issues which have arisen during my career. Of these, naturally, some are more complimentary than others, to put it mildly. I feel, however, that editorial cartoons are an art form which illustrates some basic tenets of our society—the freedom of the press, and the freedom to criticize our Government, among them.

Many of these cartoons hanging in my office were drawn by one particularly talented cartoonist, Charles Brooks of the Birmingham News, who retired last month after 37 years.

A native of Andalusia, AL, Charlie attended my alma mater, Birmingham-Southern College, for 1 year before transferring to the Academy of Fine Arts in Chicago to develop his talent for drawing. While there, he also met his wife, Virginia. They have now been married for 43 years.

After serving in the Army in Europe during World War II, Charlie Brooks was hired as editorial cartoonist for the news. He remained there for 37 years.

For the last 15 years, Brooks has served as editor of an annual publication, the Best Editorial Cartoons of the Year. In addition, in 1960, he received the top award for editorial cartoons from Sigma Delta Chi, and was the first recipient of Troy State University's Hector Award for excellence in journalism. Brooks has also been a 15-time winner of the Freedom Foundation Award.

With Charlie Brooks' retirement, the Birmingham News is losing a valuable artist. Its readers, myself included, will miss his cartoons—whether they were controversial, patriotic, civil-oriented, or humorous. The walls of my office, however, will continue to be decorated with his work—cartoons concerning my terms as Alabama's Chief Justice and my work here in the Senate.

I wish Charlie Brooks the best in his retirement. After his years of dedicated service in informing Americans of the achievements, and foibles, of public figures, he deserves a time to work on his oil painting, away from the maddening crowd.

Mr. President, I ask unanimous consent that an article from the Birmingham News concerning Mr. Brooks' retirement be printed in full in the RECORD.

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

BROOKS ENDS "WONDERFUL 37 YEARS," RETIRES FROM NEWS

(By Mike Bolton)

Without pomp and circumstance, Charles Brooks filled a cardboard box with the belongings from his desk Monday, punched an elevator button and became a part of the Birmingham News' past.

But, oh, what a past.

Brooks, The Birmingham News editorial cartoonist for the past 37 years, had earlier in the day attended a party held in his honor before a room full of friends, family and comrades.

Hugs, handshakes, well-wishes, gifts and a large cake were the order of the day for one of the most-respected and best-known newspaper personalities in Birmingham's history.

Brooks, who turned 65 Friday, took time to reflect on his distinguished career before leaving his desk for the final time Monday.

"I grew up in Andalusia and was raised reading The Birmingham News," Brooks recalled. "I started reading The News when I was 8 or 9 and I liked it and my folks liked it.

"I always thought to get a job at The Birmingham News would be the living end."

It took time, but Brooks eventually accomplished that goal which enabled him to mingle among presidents and commoners.

Brooks attended Birmingham-Southern College for one year after high school, but transferred to the Academy of Fine Arts in Chicago to develop his love for drawing. There he also developed his love for Virginia, now his wife for 43 years.

World War II put a quick end to art instruction, however, and Brooks joined the Army and served in Europe in such notable battles as the Normandy Invasion and the Battle of the Bulge.

Following the war, he was hired as editorial cartoonist for The Birmingham News and it would become the only job he would know for 37 years.

"It's just a big family here, and it's been a wonderful 37 years," he said, "Although I'm leaving, I'll still feel like part of that family."

Brooks' honors during his 37-year career have been enormous, but several stand above the rest. He received the Sigma Delta Chi's top award in 1960 for his editorial cartoons and he was the recipient of Troy State University's first Hector Award for journalistc excellence.

He has also been a 15-time winner of the Freedom Foundation Award for his work.

One of Brooks' biggest honors was a personal invitation to the White House in 1982 to present one of his original cartoons to President Ronald Reagan. Reagan had seen a Brooks' six-panel cartoon that depicted him and House Speaker Thomas P. "Tip" O'Neill and wanted a personal copy.

Brooks has also presented his originals to Presidents Richard Nixon, Gerald Ford and Jimmy Carter.

Brooks has served as the editor of the annual book, The Best Editorial Cartoons of the Year, for the past 15 years and he will continue that duty, he said. He said he hopes to dedicate more time to his wife, two children and four grandchildren and spend time painting with oils, a medium he has not had much time to practice over the years.

INMATE ILLITERACY

Mr. SIMON. Mr. President, I have been talking about the problems of illiteracy in our society for some time, and I hope that before this Congress expires we can at least take some small steps in the right direction.

The other day in the Chicago-Defender, I read an article by Sandra Crockett which starts out with this simple but accurate statement: "If more inmates could read, write, and fill out job applications, the burgeoning prison population just may be curtailed."

It is one more reason for moving on this problem of illiteracy. If we want a genuine anticrime program, and not just some phony public relations anticrime program, then one of the things we ought to do is to attack illiteracy. The majority of people in our prisons today are functionally illiterate.

How many of them would be in prison if we had decent schooling to catch their problems early and had programs to provide literacy training, no one knows. But the numbers in our prisons would be smaller.

I urge my colleagues to read the article by Sandra Crockett.

The article follows:

"IF MORE INMATES COULD READ . . . ."

(By Sandra Crockett)

If more inmates could read, write and fill out job applications, the burgeoning prison population just may be curtailed, said a literacy consultant who is asking the public to donate paperback dictionaries to prisoners.

Louis Gross, who was hired by the Chicago Public Library system to test the literacy level of inmates confined at 26th and California, said learning to read and write won't solve all problems, but it's a start.

"I think that not being literate is the cause of a lot of people being here," said Gross. "If you can't read or write or correctly fill out a job application, one thing leads to another. Of course, there are other things involved like drugs but being able to read and write would make a difference."

There is a strong desire among the inmates to improve their skills, said Gross.

Paperback dictionaries can be mailed or brought in to the Literacy Volunteers of America office, located on the 4th floor at 9 W. Washington St.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1986

The PRESIDING OFFICER. The clerk will report the unfinished business.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes.

The Senate resumed consideration of the Joint resolution.

AMENDMENT NO. 1347

(Purpose: To prohibit the availability of funds for the transfer of nuclear equipment, materials, or technology to the People's Republic of China unless certain conditions are met)

Mr. GLENN. Mr. President, I rise today to submit an amendment to the continuing resolution.

The United States-China nuclear agreement for cooperation is scheduled to go into effect by midnight tonight. This will be a 30-year agreement with the largest Communist

nation on Earth and does not provide for safeguards to ensure peaceful uses of U.S. nuclear exports. The agreement says the following:

The parties will use diplomatic channels to establish mutually-acceptable arrangements for exchanges of information and visits to material, facilities and components subject to this agreement.

Mr. President, let me paraphrase that. What we are saying is that we are just going to use diplomatic channels to talk about what the arrangements may be sometime in the future. So the only verification the United States will have of peaceful uses will be through these yet-to-be-arranged visits, yet-to-be-arranged exchanges of information.

When this agreement was first brought back and we found out what it provided—or, more, what it did not provide—I found this very disturbing. So I introduced a bill, S. 1754, that had the effect of postponing implementation of the agreement until the President had certified that the arrangements on verification of peaceful uses had been made and would be essentially equivalent to those normally applied by the IAEA—the International Atomic Energy Agency.

Mr. President, that is so minimal to me that I cannot believe that this was not done already. What I asked for was not that there be new talks opened up with China on the agreement, but just that the processes of effective verification through safeguards be certified by the President to us before any shipments were actually made.

There were some other aspects of the agreement that were disturbing which I also covered. These included United States consent rights on reprocessing, and a written declaration from China describing their nonproliferation policies. We should recall that their previous policy was to actually proliferate to Socialist states. They made no bones about that. They advocated proliferation—in other words, spreading nuclear weapons around the world. That was one of the things I addressed, as well as the relationship of the agreement to U.S. export laws. We are eliminating all those considerations today, although I still think they are important in order to focus our attention on this one item on safeguards that I think is the most important of all, and I cannot imagine that we are going to let this agreement go through without some provision such as I am proposing today.

So while these other aspects to which I referred are disturbing, we will not go into them now.

Subsequent to the introduction of my bill, the Foreign Relations Committee proposed a joint resolution, Senate Joint Resolution 238, which dealt with the issues I raised in my own legislation, and did so through the process of Presidential certification, but did not deal with the issue of safeguards. The resolution was not much better than the original language in the agreement, because, under the new resolution passed by the Foreign Relations Committee, the President has a certification, all right, but all it says is that the arrangements on verification of peaceful uses "have been designed to be effective." I would hardly expect them to say they had been designed to be ineffective. But there is no definition of "effective."

The world standard of what is effective in this field is IAEA safeguards or their equivalent, and that is what more than 100 other nations have agreed to. It is required on other nuclear shipments. Yet, when it comes to this agreement, we back off and say this is not necessary, that it might offend someone.

This message will be greeted with great joy, I am sure, in the capitals of such nations as Iraq, Libya, South Africa, and Pakistan—countries which have supported cutbacks in the safeguards budget of the IAEA, and who have engaged in activities whose purpose can only be for the development of nuclear weapons.

I need not remind this body that in 1981 Israel attacked a nuclear reactor in Iraq because the IAEA safeguards system that was in place was not strong enough. An attack actually occurred.

To send a message now to the rest of the world that we have been requiring too much of safeguards and we are not going to have that as our continuing standard is the wrong signal to send. To send a message that the system is stronger than it needs to be is the wrong message at the wrong time and is false, regardless of how one looks at it.

Mr. President, although the agreement calls for diplomatic discussions on the subject of verification between the United States and the People's Republic of China, the State Department has made it clear that they do not expect these discussions to result in the acceptance of international safeguards by the Chinese on United States equipment.

Let me be very clear about what this means. It means that if our negotiators come back from Biejing with an agreement on verification arrangements that does not contain safeguards, and yet the President certifies in accordance with Senate Joint Resolution 238 that the arrangements are nonetheless effective for verifying peaceful uses. We will have sent a message to the entire world that the safeguards system of IAEA is tougher for all these other 100 nations around the world than it need be, and that effective verification can be done without these safeguards.

Accordingly, my amendment would deal with this problem by simply withholding any funds for the implementation of the United States-China nuclear agreement until the President certifies that the discussions on verification that are provided in the agreement for cooperation have in fact resulted in Chinese acceptance of IAEA safeguards, or their equivalent, on any United States exported materials or equipment.

Mr. President, that is such a minimal requirement that it is hard for me to believe that this would be opposed or not required in the first instance.

Mr. President, it is not an onerous burden on the Chinese, and let me give just a little bit of history of what they have already agreed to with some other nations. They have already made a statement that they will make a voluntary offer to the IAEA to have safeguards on some of their nuclear installations. Those installations have not been specified yet. But it shows that they are not necessarily against the IAEA safeguards.

Further than that, and this is the most important part, the People's Republic of China has already signed nuclear agreements with Japan, Argentina, and Brazil in which IAEA safeguards are in place on all exported items. Everything is provided for. Everything is covered under IAEA safeguards, with Japan, Argentina, and Brazil.

All this amendment does is to ensure that the Chinese offer for IAEA safeguards will apply to any United States exported nuclear materials or equipment to China.

Mr. President, just recently we learned about espionage activities by the People's Republic of China in the United States. A trusted employee of the CIA was apparently working for Beijing for nearly 40 years, supplying some of the most sensitive national security information for that country.

What has been our response to this? Our response, Mr. President, has been one of total silence.

Here we are about to let a 30-year nuclear agreement go through. The fact that some of our most tightly held secrets were being peddled to the Chinese by one of their agents has been met with no reaction by the administration.

This is not the only case, however, which should make us wary about agreements which contain no safeguard provisions.

In January 1984 we signed a nonnuclear high-technology export agreement with China and just 1 month later five persons were arraigned in the Federal District Court in Newark charged with trying to smuggle high-technology equipment to China.

Mr. President, the New York Times reported on February 14, 1984, that

the Assistant United States attorney called the plot involving up to $1 billion in missile-guidance and radar-jamming gear "a very serious defense matter." I repeat that it involved up to $1 billion in missile-guidance and radar-jamming gear.

Was that a unique case? No. I am afraid to say it was not because 3 months after the high-technology agreement went into effect, a 17-count indictment for the illegal export of electronic testing and calibrating equipment to China was filed in Los Angeles. An assistant United States attorney was quoted in the Los Angeles Times of April 11, 1984, as saying "A primary use of some of the exports is in nuclear research."

Later on the article says:

> Authorities believe that the individual arrested was supplying hardware for use in China's main nuclear testing site in the northwestern part of the country.

I am sure that is their major testing site at Lop Nor in Sinkiang Province. I visited out there adjacent to that area some years ago.

Mr. President, evidently the signing of a high-technology export agreement with China did not provide a sufficient incentive for good behavior of the People's Republic of China for high-technology trade.

Mr. President, I believe it would be the height of folly to allow the United States-China nuclear agreement to go through without demanding that our negotiators achieve a verification provision that includes the application of IAEA safeguards, or their equivalent. All we are saying is, please certify that we have at least an equivalent of IAEA safeguards in place because that has been the norm for the rest of the world and it is what we have always insisted on since the IAEA system came into existence. It is what more than 100 other nations have agreed to, and we do not want to send a signal to them that we are backing off on our leadership role in this world in requiring as much safety as possible wherein nuclear trade is involved.

Mr. President, one might ask why should we demand safeguards of the Chinese when they are already a weapons state and do not need our technology to make weapons?

The answer is that it is not true that our equipment and technology would not be useful in the Chinese weapons program. We will be sending electronic equipment and computer codes that will be useful to the People's Republic of China in modernizing their production reactors for making plutonium and for improving their nuclear sub reactors, for instance.

In addition, Mr. President, anyone who has followed developments in the international nonproliferation regime over the past decade knows how sensitive the question of discrimination between weapon states and nonweapon states has become. If we do not demand safeguards of the Chinese, then we are saying to India, to Israel, to South Africa, and others, that all you have to do is declare yourself a nuclear weapons state and we will be glad to send you nuclear equipment and technology without safeguards.

We went through a very difficult period with India a few years ago because they would not accept full-scope safeguards. In fact, I think our difficulties with India over the nuclear matters still sour our relationship with the world's largest democracy.

Are we now to say that the People's Republic of China with its undemocratic Communist government, although we are glad to see them opening up some from the strict ideological approach they took to their government back just a short time ago, but it is the world's largest Communist government, with its past history of antagonism to America, its espionage and illegal smuggling activities against us, are we to say that the People's Republic of China is more deserving of nuclear trade with the United States than democratic India merely because the People's Republic of China is an overt weapons state? To say that makes sense is to create a climate where other countries will perceive it to be in their interest to make nuclear weapons if they want American nuclear technology.

So it is self-evident that not demanding safeguards undermines the nonproliferation regime no matter how you slice it.

I repeat another thing I think is very important here. You know the Chinese throughout their history have advocated nuclear proliferation. They made statements over and over again that nuclear weaponry is good if it is in the hands of the Socialist States; in other words, in the hands of the Communist States, as they see it. And it was only in January of last year that they finally made a public statement that said it is now their policy not to proliferate.

That is the only thing we have to go on as far as their intent is concerned.

Mr. President, one might ask another question. That is, what if the People's Republic of China just will not have safeguards? What happens in that case? Would we not be better off having influence over the Chinese nuclear program by trading with them than if the agreement goes down the tubes?

The answer is that this is a very traditional argument and has no validity. The logical conclusion of this argument is that we should have no requirements for nuclear trade at all, so that we can influence everybody's policies by nuclear trade.

Mr. President, this is the argument we went through back during the days when we were debating the Nuclear Nonproliferation Act that was passed in 1978, and I was a principal author of that act. Our debate at that time for about 6 or 7 months before we passed that act was whether we should have our American business people out advocating sales without restrictions, out trying to make sales, out making sales wherever we could all over the world so we could have as much influence as possible through normal business channels. Or should we in this interim period where we are trying to get control of nuclear weapons stockpiles with the Soviets, should we say while we try to negotiate those stockpiles down we will try on a government-to-government basis to prevent the spread of nuclear weapons to more and more countries?

That was the decision then.

So we had a looser policy on nuclear trade up until we passed that Nuclear Nonproliferation Act in 1978.

When we had our previous policy or looser policy before that act was passed the result was that instead of influencing our trade recipients to stay away from thinking about nuclear weapons we encouraged other suppliers to adopt loose trading policies of their own. And that is part of our problem today.

That is the main reason that the so-called problem countries as we call them now are closer to having nuclear weapons today.

I think the fact is that the best way of influencing China's policy is by sticking to our principles. Let me repeat again. This is not something of a great hurdle for the Chinese. They have already accepted safeguards as part of the agreements with Japan, Brazil, and Argentina. And they have even gone further and made a voluntary proposal that some of their other facilities, not specified as yet, but some of their facilities will, indeed, be under IAEA safeguards. Incidentally, the agreement they made with Japan provides for the complete recall of any Japanese equipment if the safeguards are violated. We have no provision and are asking for no such provision in our agreement.

So it is not as though we are asking them to make some great leap forward that they do not want to make. This is something they have already agreed to with other nations. It is unbelievable to me that we cannot get a similar agreement with the Chinese ourselves.

Mr. President, I urge my colleagues to support this amendment. I believe it is necessary. I believe, if we are to set the example before the rest of the world that we want to set and continue to set, this is a necessary amendment.

I repeat what I said starting out. The original proposal that I had that went to the Foreign Relations Committee had four different areas of con-

cern: verification of peaceful uses, which this safeguard proposal deals with; we also proposed protection of United States consent rights; we also proposed clarification of China's nonproliferation policy; and we proposed clarifying the relationship of the agreement to future United States export laws and regulations.

But the last three of those we are not even bringing up here on the floor today. I am not proposing anything on those. All I am asking for is that the President certify that the arrangements they have provided in this agreement that says that the parties will use diplomatic channels to establish mutually acceptable arrangements for exchange of information and visits subject to this agreement, all I am asking is that the President come back and certify to us that those arrangements have been made and that they are, at least, the equivalent of IAEA safeguards. That, it seems to me, is the bare bones, bottom line of what we should be proposing to the Chinese before we send any equipment out under this agreement.

Mr. President, when I started my talk here, I did not send the amendment to the desk. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. DANFORTH). The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN] proposed an amendment numbered 1347.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the joint resolution, add the following:

SEC. . None of funds appropriated or otherwise made available by this joint resolution or any other provision of law may be available for the issuance of any license for export to, or for any approval for the transfer or retransfer to, the People's Republic of China of any nuclear equipment, materials, or technology subject to the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy, done on July 23, 1985, until the President certifies to the Congress that reciprocal arrangements on the verification of the peaceful uses of fush equipment, materials, and technology will include standards and methods of materials accounting and inspection essentially equivalent to those normally applied by the International Atomic Energy Agency.

Mr. GLENN. Mr. President, I have discussed the amendment, what it proposes to do and what it does not propose to do. It is very simple. It is very straightforward. I urge the support of this amendment.

I would be glad, if there are opponents to this proposal—I do not know whether any speeches are to be made in opposition to this—but I would be happy to have a voice vote on this. Absent that kind of an agreement from the floor managers, I would ask for the yeas and nays at the appropriate time.

I yield the floor.

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

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

AMENDMENT NO. 1348

(Purpose: To change section 101(d) to insert the conference agreement on the D.C. Appropriations Act, 1986, in lieu of the Senate-passed bill)

Mr. STEVENS. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside for the consideration of an amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 1348.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 3, strike lines 20 through 24, and insert in lieu thereof the following:

"(d) Such amounts as may be necessary for programs, projects, or activities provided for in the District of Columbia Appropriations Act, 1986 (H.R. 3067), to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-419), as filed in the House of Representatives on December 5, 1985, as if enacted into law."

Mr. STEVENS. Mr. President, this is a technical amendment that provides that the rate for the funding of the D.C. appropriations bill will be at the level of the conference agreement that was filed last Thursday. There are different levels in the pending bill and this will conform the pending bill to the level of the conference agreement. It has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska [Mr. STEVENS].

The amendment (No. 1348) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1347

Mr. STEVENS. Mr. President, is the amendment of the Senator from Ohio pending once again?

The PRESIDING OFFICER. That is correct.

Mr. COHEN. Mr. President, I rise to join Senator GLENN in his effort to bring this matter to a vote.

Last month, after 2½ years of close congressional involvement in the issue of sharing nuclear technology with the People's Republic of China, the Senate quietly, quickly, and with indadequate notice passed a resolution approving, with contingencies, the United States-People's Republic of China Nuclear Cooperation Agreement.

Given the longstanding concerns of many Senators regarding this agreement, I am quite displeased with the manner in which that resolution was raised and passed. Despite the impression that might be created by the CONGRESSIONAL RECORD or the media coverage, no floor discussion took place. There was no opportunity for Senators who had been involved in the drafting of that legislation to discuss on the floor its meaning or the manner in which it should be implemented. After 2½ years of controversy, Senate Joint Resolution 238 was whispered through in a matter of seconds.

In my view, proceeding in such a manner on matters of great signficicance over which Senators have expressed strong interest is highly inappropriate. I find this particularly disturbing since goodwill and trust among the key executive and legislative players is essential if the agreement is to be successfully implemented through the process provided for in Senate Joint Resolution 238. Moreover, it is especially unfortunate that this occurred, since it culminated what was otherwise a rather cooperative endeavor among the members of the Foreign Relations Committee and the Subcommittee on Nuclear Proliferation.

I know that Senator GLENN has been involved in this issue, as have I, on the Subcommittee on Nuclear Proliferation for a number of years now, not only with respect to China but also with respect to India. And it is something that I think should interest all who are concerned about the spread of nuclear technology.

This past August I had an opportunity to travel, along with my colleague from Idaho, Senator McCLURE, to the People's Republic of China. They were very generous with their time. They were very gracious, as always. We had

a fairly vigorous discussion about this particular agreement.

There were indications, certainly by Senator McCLURE, that he strongly favored the measure, as he does. There were also indications by others that some Members of the Senate were concerned about it, and were concerned about the ambiguity that still exists in the nature of this particular relationship.

Frankly, I find it somewhat astonishing that the United States would be so vocal in its concern over the birth control policies of China, and yet be quite reticent in trying to pin down exactly what we are agreeing upon when it comes to the potential spread of nuclear weapons. I find that an astonishing inconsistency.

How clear spoken, how vigorous, how condemnatory the United States was with respect to China's birth control policies. Yet the administration's policy on nuclear cooperation with China leaves the United States Senate and the American people hanging somewhat in limbo by the thread of a good deal of ambiguity.

What we have is basically the United States interpretation of what the People's Republic of China thinks it is agreeing to. I would like to pose the question as to whether or not we would ever have such an arrangement with the Soviet Union in an arms control agreement? I doubt it very much.

As I understand what Senator GLENN is asking for in this amendment, it is quite modest compared to what he was looking for in the legislation he proposed to the Senate Foreign Relations Committee.

While I supported the Foreign Relations Committee's legislation, Senate Joint Resolution 238, as being better than simply allowing the agreement to go into effect without any contingencies, I clearly stated that its requirements fell short of what I believe to be desirable in two critical areas—promoting adherence by China to its nascent nuclear nonproliferation policy, and monitoring whether China is using United States nuclear exports solely for the intended peaceful uses.

The amendment now under consideration addresses the latter point in what I believe is a responsible manner. This amendment would bar licensing of any export to the People's Republic of China under the agreement until the President certifies to the Congress that the reciprocal arrangements for monitoring the peaceful use of exports will be essentially equivalent to IAEA safeguards. In contrast, Senate Joint Resolution 238 would merely require that the President certify that the monitoring arrangements are "effective in ensuring" peaceful use.

The implications of the short-fall of Senate Joint Resolution 238 are significant. If the President certifies that verification arrangements less strict than IAEA safeguards are effective in ensuring peaceful use, he will be certifying that IAEA safeguards are tougher than necessary. This would be a troubling precedent and would greatly hamper efforts to convince problem countries to accept IAEA safeguards. These nations which operate unsafeguarded facilities will be in a position to claim that IAEA safeguards are not necessary to ensure peaceful use of nuclear equipment and materials.

I would not accept the argument that United States arrangements with China establish a precedent for United States dealings with nonnuclear-weapon states. Nonetheless, these problem countries will vigorously make this argument. We can avoid this difficulty by taking the reasonable and sensible step of using IAEA safeguards as the standard for the monitoring arrangements to be negotiated with China.

This is the position which I have advocated in my testimony to the Foreign Relations Committee, which was contained the legislative measure I proposed to the committee, and which I argued for on this floor following passage of Senate Joint Resolution 238.

There are a few important points which I would like to emphasize. China has signed nuclear cooperation agreements with Japan and Argentina. In both those agreements, China has agreed to accept IAEA safeguards on nuclear transfers it receives from those countries. It is clear that China does not find IAEA safeguards are unacceptable. Passage of this amendment would not jeopardize the United States-People's Republic of China Agreement.

Furthermore, this amendment does not vitiate the requirement set forth in Senate Joint Resolution 238. Rather, it makes that requirement more specific. It, in essence, interprets the vague requirement of Senate Joint Resolution 238 in what I believe to be an appropriate manner. Without this amendment, the administration would be free to certify that any arrangments it negotiates with China, no matter how inadequate, meets the congressional certification requirement. This amendment sets a standard for that certification requirement.

I believe that this amendment is a responsible means to deal with this difficult matter, and I would urge my colleagues to support it.

HISTORY OF CONGRESSIONAL INVOLVEMENT

Congressional interest in this agreement goes back several years. In July, 1983, I joined seven other Senators in writing the President to express our concern over reports on United States-People's Republic of China negotiations on such an agreement and to request that the matter be addressed publicly. Later that year, a hearing of the Governmental Affairs Committee's Subcommittee on Energy, Nuclear Proliferation and Government Processes provided an opportunity to question administration witnesses about these negotiations.

Numerous other senators have taken other action, such as writing to the President and to the Secretaries of Defense, State, and Energy concerning the agreement and China's nuclear export policies.

As I mentioned, in August of this year, Senator DOLE led a delegation, of which I was a member, to the People's Republic of China. The Chinese were quite gracious and generous to us during this visit. The Nuclear Cooperation Agreement was an important subject in our discussions with Chairman Deng and President Li. We informed them of the serious concerns in Congress about the People's Republic of China's nonproliferation policies, stemming from both China's historical attitude toward nuclear proliferation and Chinese actions up until very recently.

CHINA'S POLICY ON PROLIFERATION

The People's Republic of China's historical attitude toward nuclear nonproliferation can hardly bring comfort to those concerned about the spread of nuclear weapons. As the administration's nuclear nonproliferation assessment statement discusses, the People's Republic of China has consistently opposed both the concept and the reality of the international nuclear nonproliferation regime.

I recognize that many of the People's Republic of China's most worrisome declarations were made during the period of the cultural revolution, and that China has now entered the Deng Era. Nonetheless, these sobering facts of China's history have caused justifiable concern as the People's Republic of China has become involved in international nuclear commerce. Events of the last few years have demonstrated this concern to be well-founded.

As the Members of this body know, there have been reports that the People's Republic of China has provided Pakistan with assistance in acquiring a uranium enrichment capability and with detailed nuclear weapons design information. Significantly, reports indicated that such enrichment assistance continued even after the United States-People's Republic of China Nuclear Cooperation Agreement was initialed during President Reagan's visit to Beijing in April 1984. Other reports indicate that the People's Republic of China has provided enriched uranium to Argentina, and may have provided heavy water to Argentina, India, and South Africa and enriched uranium to South Africa.

All of this highlights the critically important opportunity associated with the understandings that accompany

the agreement. These understandings, which are contained in the State Department document "United States Summary of Discussions," concern the People's Republic of China's nuclear nonproliferation policies. If the "U.S. Summary" accurately reflects People's Republic of China nonproliferation policies and the People's Republic of China were to adhere to such policies, this would mark a significant step toward strengthening the nonproliferation regime.

QUESTIONS ABOUT THE UNDERSTANDINGS AND AGREEMENT

However, because the record of these understandings is a United States summary, not a People's Republic of China summary, uncertainty exists as to whether this faithfully reflects People's Republic of China nuclear nonproliferation policies. Other uncertainties also exist with regards to this United States document and People's Republic of China nuclear nonproliferation policies.

Additionally, several questions have been raised with respect to provisions of the Agreement, itself. Foremost among these are questions regarding United States prior consent rights, required by United States law, over potential People's Republic of China reprocessing or enrichment activities involving U.S-supplied materials or facilities. Questions have also been raised about guarantees of peaceful use of materials and equipment exported to the People's Republic of China under the agreement.

During the September, 1983, hearing which I mentioned, ACDA Director Adelman and I discussed situations in which the United States and another country have entered into an agreement without adequately clarifying the agreement's meaning:

Senator COHEN. Mr. Adelman, what has been your experience when there has been a disagreement between two major countries over an interpretation over a treaty provision?

Mr. ADELMAN. My experience has been that they just talk about it forever until the accusing party decides to forget it. It has not been a happy experience.

I would agree with Dr. Adelman's assessment and recall specific instances, such as the unilateral understanding of SALT I regarding heavy missiles. In my view, it is better to make the effort to create a solid foundation for our developing friendship with China than to build that relationship upon shifting sands of ambiguity and what may amount to unilateral declarations.

AGENDA FOR CONGRESSIONAL ACTION

I share the view that these are serious concerns that should be addressed. Congress, in my view, can play a productive role by taking action to:

Dispel the uncertainty as to whether the "U.S. Summary of Discussions" is a faithful representation of People's Republic of China nuclear nonproliferation policies; clarify the ambiguities with the agreement that appear to exists; and prevent the unorthodox aspects of the Agreement from serving as a precedent for future nuclear cooperation agreements.

I suggested to the Foreign Relations Committee specific legislative provisions for accomplishing this. Senate Joint Resolution 238 incorporates certain of these provisions and addresses the concerns dealt with by the others.

Let me outline the particular elements involved.

REAFFIRMING THE BEIJING UNDERSTANDINGS

It would not be responsible, in my view, for the Congress to approve implementation of the Agreement relying upon the "U.S. Summary of Discussions," as provided to the Congress. In my view, the Congress should have a written statement by the People's Republic of China itself—rather than by another branch of the U.S. Government—that clearly and precisely states the People's Republic of China's nuclear nonproliferation policies.

Senate Joint Resolution 238 would prohibit the licensing of any nuclear export under the agreement until two requirements are met. First, China must provide the United States with additional information regarding its nuclear nonproliferation policies beyond that already provided. Second, the President must certify, based on this and all other available information, that china is not engaged in proliferation-related activities and any previous proliferation-related activities have terminated.

As I have indicated, I would have preferred that Congress require that such additional information to be provided by China be in written form to avoid potential misunderstanding and that a minimum standard for such information—such as a reaffirmation of the "U.S. Summary of Discussions"—be set. In a recent hearing of the Energy and Nuclear Proliferation Subcommittee, I requested specific information from administration officials on what additional information it will seek and in what form, as well as the minimum additional information it believes it would need to be able to meet this certification requirement. It is my hope that there will be consensus between the executive and legislation branches on appropriate certification standards. If there is not, firmer congressional action may be necessitated.

GUARANTY OF PEACEFUL USE

The NNPA also requires that nuclear cooperation agreements include "a guaranty that safeguards as set forth in the agreement will be maintained." The matter of guaranty of peaceful use is addressed at various points in the agreement, including the provisions in article 8 for information exchanges and visits, but details regarding the implementation of these provisions are not addressed.

The Congress could accept the agreement with less trepidation, in my view, if it knew how this guaranty would be implemented. I proposed, as did Senator GLENN, that no nuclear export license for the People's Republic of China be issued until the President certifies to the Congress that the arrangements made pursuant to article 8 will be essentially eqivalent to that provided by the materials accounting and inspection standards normally applied by the IAEA.

Senate Joint Resolution 238 has a more ambiguous requirement that the President certify that these arrangements have been designed to be effective in ensuring that exports shall be used solely for the intended peaceful purposes. The IAEA norms provide a standard of effectiveness against which to measure the arrangements to be made pursuant to article 8. In my view, the administration should insist on arrangements as effective as IAEA norms, which, I would note, China has agreed to accept for nuclear transfers it receives from Japan and certain other countries. This amendment would ensure that this occurs.

U.S. PRIOR CONSENT RIGHTS

The Nuclear Non-Proliferation Act [NNPA] clearly states that agreements for nuclear cooperation must include a guaranty against reprocessing or enrichment activities involving United States supplied materials or facilities without prior approval of the United States. The provisions of the United States-People's Republic of China Agreement on this matter could invite misunderstanding unless they are clarified.

The administration has told Congress that these provisions, by which the United States undertakes to favorably consider such activities, do not prejudice the decision of the United States with regards to arrangements for such activities. I proposed to the Foreign Relations Committee that no nuclear export license be issued for the People's Republic of China under the agreement until after the President certifies the correctness of this interpretation. This requirement is contained in Senate Joint Resolution 238.

SUI GENERIS NATURE OF THE AGREEMENT

The United States-People's Republic of China Nuclear Cooperation Agreement is unique. As the President noted in his letter transmitting the agreement to Congress, the agreement—

is the first peaceful nuclear cooperation agreement by the United States with a Communist country and the only such agreement with another nuclear weapon state (the United Kingdom and France are covered by U.S. agreements with EURATOM).

Accordingly, I am pleased that Senate Joint Resolution 238 explicitly states that the agreement holds no

precendent for agreements for peaceful nuclear cooperation that the United States might negotiate, renegotiate, or enter into in the future.

PRIORITY OF U.S. LAW

Article 2 of the agreement states that:

The parties recognize, with respect to the observance of this agreement, the principle of international law that provides that a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

Such a statement does not occur in other recent agreements for nuclear cooperation signed by the United States, such as the agreements with Sweden and with Norway. Nor is such a statement included in the nuclear cooperation agreement between the People's Republic of China and Japan signed in July 1985.

The NRC states that it—

is concerned that this new provision could be read as reducing the flexibility of the U.S., including that of Congress, in enacting and implementing future legislation affecting future U.S./PRC nuclear relations. However, we believe that subsequently enacted domestic legislation that was inconsistent with the provisions of the Agreement would have priority.

State Department officials have stated that subsequently enacted legislation would, indeed, be treated as having priority.

Senate Joint Resolution 238 reaffirms this by declaring that each proposed export under the agreement shall be subject to U.S. laws and regulations in effect at the time of each such export.

CONCLUSION

I have outlined a number of areas in which Senate Joint Resolution 238 is adequate. However, as I indicated, there are two areas in which it falls short. This amendment addresses one of those, and it does so in a reasonable and responsible fashion. I urge my colleagues to support it.

Mr. GLENN. Mr. President, I appreciate the remarks of the distinguished Senator from Maine. He has indeed been a leader in this field. I know from all of our many private as well as committee and on-the-floor discussions we have had on this matter that he is just as concerned as I am, and has been through the years, about the fact that we be the leader in this field, that we not just stand by and let our nuclear know-how, let our superior nuclear technology, equipment, and knowledge just be spread around the world without applying safeguards and without applying stringent controls so that it is not just out of control.

When we look back at China's nonproliferation history, it is not a happy one. Going clear back about 20 years in the Peking Review, let me read this official statement by the Chinese:

Whether or not nuclear weapons help peace depends on who possesses them. It is detrimental to peace if it is in the hands of the imperialist countries. It helps peace if they are in the hands of socialist countries. Let it not be said indiscriminately. The danger of nuclear war increases along with the increase of nuclear powers. Nuclear weapons in the possession of a socialist country are always a means of defense against nuclear blackmail and nuclear war so long as the imperialists refuse to ban nuclear weapons. The greater the number of socialist countries possessing them, the better the guarantee of world peace.

There are other quotes I could go through.

In 1966, 1977, and 1981—as recent as that—a Chinese delegate declared to the United Nations Commission on Disarmament that "A comprehensive test ban can only tie the hands of those countries with weaker defense capabilities."

Mr. President, we have seen many newspaper reports in recent years that the Chinese pro-proliferation policy—not "non" now, but pro-proliferation policy—is backed up with more than words. I will not go into some of the charges that have been made with regard to other nations because those remarks have been made on this floor before. Some of them are classified. I do not want to get into that.

Now we are told by the executive branch that Chinese policies have changed and last year a public declaration was made by Premier Zhao Ziyang that "We by no means favor nuclear proliferation nor do we engage in such proliferation by helping other countries to develop nuclear weapons."

Mr. President, we have seen a couple of violent convolutions in the policies of the Chinese Government, the government of the People's Republic of China, over the past few years. All we are asking is that they give the same safeguards agreement to us they have given to Japan, to Brazil, and to Argentina in their nuclear arrangements that the provided information, the provided technology, the provided equipment will be under IAEA safeguards.

All we are asking the President to certify is that this minimal verification standard is being met in this agreement. Indeed, in the agreement itself it says that we will negotiate verification of peaceful uses. The actual agreement language says:

The parties will use diplomatic channels to establish mutually acceptable arrangements for exchanges of information and visits subject to this agreement.

All I am asking for with this amendment is for the President to certify that those arrangements provided for in the agreement language have taken place, and that those agreements provide safeguards equal to the actual IAEA safeguards or their equivalent. That is so simple, so straightforward, and so minimal to any agreement that we should be making around the world that I find it difficult to find that this would be challenged.

Mr. President, I was asked on the floor a moment ago, why should we demand safeguards of the Chinese when they are already a weapons state, and do not need our technology to make weapons? That is true. I repeat my earlier statement that it is not true that our equipment and technology would not be useful in the Chinese weapons program. We will be sending electronic equipment and computer codes that will be useful to the People's Republic of China in modernizing their production reactors for making plutonium and for improving their nuclear submarine reactors.

In addition, anyone who has followed developments in the international nonproliferation regime over the past decade knows how sensitive the question of trade discrimination between weapon states and nonweapon states has become. So if we do not demand safeguards of the Chinese, then we are saying to India, Israel, South Africa, and others "All you have to do is declare yourself a nuclear weapons state, and we will be glad to send you nuclear equipment and technology without safeguards."

We went through that with India a few years ago where there was a big misunderstanding about the agreement we had going on. They would not accept full-scope safeguards. Are we now to say that the People's Republic of China with its communist government, its past history of antagonism to America, espionage, and illegal smuggling activities against us is more deserving of nuclear trade with the United States than democratic India merely because the People's Republic of China is an overt weapons state?

I think Senator COHEN, the distinguished Senator from Maine, makes a good point. Would we make this same kind of agreement with the Soviet Union? We would not say this agreement is satisfactory without safeguards to the Soviet Union for American equipment, yet an even larger communist nation the world is China and we are saying we will make this agreement with them, and to say that makes sense is to create a climate where other countries will perceive it to be in their interest to make nuclear weapons if they want American nuclear technology.

So it is self-evident that not demanding safeguards undermines the nonproliferation regime no matter how you slice it. This amendment proposes such a minimal standard of acceptance, and all we require is that the President certify that IAEA safeguards equivalency is in place before shipments are made.

Mr. President, it is a very minimal amendment. I urge its support.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I rise in strong support of the amendment being offered by the Senator from Ohio.

I think it is a sound and much needed amendment that ensures our national security will be maintained if we send highly sophisticated nuclear equipment and technology to the People's Republic of China.

Mr. President, this is a vertification amendment. It simply sets a standard to our trade with the People's Republic of China that we would set with any type of arms control agreement with a Communist nation—that it be verifiable.

All Senator GLENN is ensuring in this amendment is that our nuclear trade with the People's Republic of China be verifiable. Anyone who opposes this amendment is, in effect, saying that he does not care whether the United States-People's Republic of China nuclear cooperation agreement is verifiable.

Now let me say at the outset, that I favor closer economic ties with the People's Republic of China.

I agree with those who say that we should have a healthy trade relationship with the People's Republic of China. I think it serves the interest of both nations.

Clearly, the United States stands to benefit from energy technology transfers to the People's Republic of China in terms of expanded trade opportunities, improved diplomatic relations, and increased energy supplies on the world market.

But in considering the opportunities, we should not forget the fact that shipping sophisticated nuclear equipment technology, and materials to the People's Republic of China—or any country, for that matter—has its risks.

If the People's Republic of China misuses our nuclear trade or uses it in a way that undercuts our nonproliferation goals in other parts of the world, the United States might well end up with a national security nightmare on its hands.

Furthermore, in considering the opportunities for friendlier relations with the People's Republic of China, we should not forget the fact that the nonproliferation headaches we have had in the past with nuclear trade have been primarily with our friends.

We should not forget the fact that nuclear trade has often ended up being a source of friction and discord in our relations with individual countries. I think India is a perfect example of this fact.

Even though the People's Republic of China has changed its nonproliferation policy for the better in recent years, or says it has, even though it has joined the International Atomic Energy Agency and has recently announced that it would open some of its facilities to IAEA inspection, the People's Republic of China's commitment to preventing the spread of nuclear weapons can hardly be classified as enduring.

On the contrary, serious questions remain as to whether the People's Republic of China's current commitment to nonproliferation is anything more than a commitment of convenience—a commitment that could just as easily be reversed in the future.

The People's Republic of China's past attitude toward nonproliferation has been cavalier, to put it charitably.

Mr. President, I hope that you and other Senators will listen to the statements that have been made by the spokesmen.

In 1963, for example, a People's Republic of China Government spokesman stated that "it helps peace" if nuclear weapons "are in the hands of socialist countries."

In 1965, the Beijing Review stated that "China hopes that Afro-Asian countries will be able to make atom bombs themselves."

In 1966, then-Premier Zhou En-lai stated that "nuclear weapons cannot be monopolized."

In 1978, Foreign Minister Hua Huang stated that nonnuclear countries should not be pressured "to abandon their right of possessing nuclear strength for self-defense."

These are shocking statements, Mr. President. And they should not be ignored as we evaluate the People's Republic of China's present stand on nonproliferation.

Furthermore, they should not be ignored in light of persistent press reports that the People's Republic of China has aided Pakistan in nuclear weapons development, and that the People's Republic of China has made questionable or unsafeguarded nuclear exports to other nations, such as Argentina and South Africa.

Considering all the dangers associated with nuclear exports and considering all the uncertainties about what kind of nuclear trading partner the PRC will be, it is critically important that verification of the nuclear cooperation agreement we sign with the People's Republic of China is airtight.

But the People's Republic of China agreement has verification problems. The Nonproliferation Act requires that any cooperation agreement we sign with a nuclear weapons state like the People's Republic of China must have safeguards. These safeguards usually involve a thorough accounting and monitoring system for our nuclear exports.

Does the People's Republic of China agreement provide for safeguards? No. It does not, Mr. President.

The agreement only calls for negotiations for some vague visitation rights down the road. If the President negotiated such a vague verification provision in an arms control agreement with the Soviets, Mr. President, it would be laughed right out of the Senate.

Incidentally, it appears that our nuclear trade with Great Britain and France, our closest allies, is governed by much tighter verification under the Euratom safeguards than what we will impose on the People's Republic of China.

I therefore strongly urge my colleagues to support the Glenn amendment which would require International Atomic Energy Agency safeguards be in effect for our nuclear trade with the People's Republic of China.

Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I am delighted to yield to my good friend from New York.

Mr. MOYNIHAN. I say to the distinguished Senator from Wisconsin that shortly I will speak to the question of how the People's Republic of China has been voting in the United Nations on matters where the United States has a position that is opposed by the Soviets. I am going to have to report, as we reported to Deng Xiao-ping in August, that on every single occasion where there was a name-calling vote in 1984—that is, where the Russians had introduced a reference to the United States that was slanderous or worse, and the U.S. delegation had moved to strike—the People's Republic of China voted with the Soviet Union.

Mr. PROXMIRE. Voted with the Soviet Union.

Mr. MOYNIHAN. With the Soviet Union. Overall, 88.9 percent of the Chinese votes in the plenary session were with the Soviet Union and against us.

Mr. PROXMIRE. Mr. President, before the Senator goes on, let me point out that the Senator from New York is undoubtedly the outstanding expert on the United Nations. As we all know, he was an Ambassador representing this country in the United Nations. He speaks with far more authority on the subject than any other Member of the Senate.

Mr. MOYNIHAN. Mr. President, I would like the Senator to permit me to ask: is he not aware, as I think some of his inferences indicated, though they did not go quite this far, that for much of the 1960's and 1970's it was a formal position of the People's Repub-

lic of China that nuclear war was coming and that was not a bad thing at all; that it would destroy half of the human race but, of the remaining half, the Chinese would have more than their share and it would all work out?

I myself have heard a foreign minister of the People's Republic of China at a dinner table with the Secretary of State of the United States say, "Nuclear war is inevitable, and we are quite prepared for it."

I am sure the Senator is aware of this. I wonder if his remarks are completely convergent with this?

Mr. PROXMIRE. Well, they are, indeed. I think that the People's Republic of China spokesmen have made it clear over and over again that they think it would be a good thing to proliferate nuclear weapons because they think that Socialist countries like North Korea, for example, and other countries of that kind, should have nuclear weapons and there should not be a monopoly, it should not be limited to the fewest possible countries, which is exactly the opposite position than this country has taken, that we should prevent proliferation.

Mr. President, our greatest real danger is not by a strike from the blue from the Soviet Union. Deterrence has taken care of that for some years and may in the future. But the greatest threat, the real threat, is that that 5th, 6th, 7th, 8th, 9th, or 10th country may get it and someone in some way may use this vast power.

Mr. MOYNIHAN. And at which point, those of us in the United States and in the Soviet Union will know where the missile came from, will know whose bomb it is. The capacity for ruin is enormous.

Mr. President, I would like to report to the Senate on a meeting in the Great Hall of the People in Beijing on August 27, 1985 between an official Senate delegation and a group of Chinese officials headed by Dr. Deng Xiao-ping, who is the ranking member of the Government of the People's Republic of China and of the party.

Mr. President, may we have order? I do not know that this is pleasant to hear, but if people do not want to listen they can leave the floor.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MOYNIHAN. Mr. President, I had the honor to be a part of a delegation of seven U.S. Senators, headed by our distinguished majority leader [Mr. DOLE]. We had been meeting with a number of Chinese officials during a 3-day stay in Beijing. This was the culminating meeting with Deng Xiaoping himself and his ministers and a rather considerable array of officialdom.

The meeting began with a very cordial welcome from Deng. He said that the relations between our two countries were solid, coherent, and nothing could change that, that we had everything to look forward to in the way of cooperation and this would be mutually beneficial. He acknowledged that this was basically a courtesy call, but noted his ministers would look to any specifics that we raised.

It happened that under Mr. DOLE's very thoughtful arrangements, at each of the different meetings, each Senator would be assigned a specific subject to raise. Sometimes the meetings were such that only one or two of us would speak; on other occasions there would be more.

On this particular occasion, it fell to me to speak to the question of the relations that the United States and the People's Republic enjoy in multilateral settings, which is to say places such as the United Nations or the International Atomic Energy Agency, which is a specialized agency in the U.N. system. Speaking for our delegation, as I did, and in the specific context of this nuclear cooperation proposal we are discussing today, I said to Mr. Deng Xiao-ping that while it was true that our bilateral relations were cordial and seemingly constructive, when we look to international settings, we do not find this same cordiality, we do not recognize the cordial relationship that Mr. Deng had described in his opening remarks.

I said, indeed, it appears to us that the People's Republic of China might be pursuing what I called a 2-U.S. policy, which might better be called a 2-America policy.

It is possible to measure this. There are numbers, statistics; the State Department has begun to keep voting records. It took a long time. I have to say the Department of State has been reluctant in this matter. The terms I raised with the Chinese on this occasion were not provided us in briefing books. We had asked for them. When we asked, we received, but, I repeat, we had to ask.

(Mrs. KASSEBAUM assumed the chair.)

Mr. MOYNIHAN. Madam President, I have here the State Department's Report to Congress on voting practices in the United Nations", dated May 20, 1985. These data refer to the 39th General Assembly—the last General Assembly.

In that last General Assembly, the nations of the nonaligned movement—which I do not have to say is really not nonaligned. Regrettably, it has become very much associated with the Soviet positions in the United Nations in the last 15 years and, indeed, one recent chairman of the nonaligned was Cuba, hardly a nonaligned nation.

During that 39th assembly, the nonaligned movement voted in agreement with the Soviet Union on plenary votes 86.1 percent of the time. That is a fairly high level of agreement with the Soviets if you consider that in the General Assembly, there are votes which are unanimous, simply procedural votes as we have them in this body, and the United States and the Soviet Union are in accord.

Yet, Madam President, in the 39th Genenal Assembly, the People's Republic of China voted more often with teh Soviet Union than did the nonaligned nations.

I see the distinguished Senator from Ohio is on the floor, the author of this amendment. I call this number to his attention, which he may not have previously noted, that in the 39th General Assembly of the United Nations—the International Atomic Energy Agency is located in that U.N. system—the Chinese voted with the Soviet Union 88.9 percent of the time, more frequently even than the nonaligned did, only slightly less often than Iran did. The simple fact is that the voting patterns of the People's Republic of China and the Soviet Union are, for all practical purposes, identical.

Madam President, that might arise out of a perceived identity of interests or, as I think is probably the case, a desire by both those parties to associate themselves with the new nations, as they are called, the nonaligned nations, if you like. I think we should not equate the Chinese voting record as one in which they voted with the Soviets because the Soviets voted in the same way. It may be that they were both voting with the Libyans, or the Arabs, or Zimbabwe—or whatever nation: India would be a good example.

However, Madam President, there is one set of votes on which you could not and ought not—and I, for one, certainly will not—accept the idea that the Soviets and the Chinese may perceive a common interest associated with some third party and therefore, their identical votes do not represent a bloc vote, but, rather, a different calculation.

In recent years, the Department of State has begun to compile a record of what they call name-calling votes. A name-calling vote at the General Assembly is a very simple affair. A resolution of some kind is introduced and, in the preambulatory language typically, there is a quite gratuitous reference to the United States. it can range from the merely vulgar to the outright slanderous. And they come over and over again and they do not deal with the substance of these matters typically; they are quite gratuitous. The "resolved" clauses, as we would say in the Senate, are not in any way related or affected. But in the meantime, the members have a chance to express their distaste for our country or their disapproval of our country, but in terms that are offensive, terms that do

not add to the exchange of opinion, certainly are not constructive, certainly do not make the forum involved a better one.

Might I just point out that over two centuries a good deal of the continuity of the U.S. Senate and such like bodies has depended on nothing more than the common courtesies of debate whereby colleagues are referred to as "distinguished" and "able" and "learned" and no great harm is done if this is not always and invariably the case. There are normal courtesies of a deliberative body and the United States, when these courtesies are flagrantly rejected at the United Nations, very properly has said, "Please now, stop that. Can we not eliminate this particular gratuitous name-calling directed against our country."

Now, in the 39th General Assembly we chose 20 such instances. There were more, I am sure. I do not precisely know. It does not matter. It makes sense to pick 10 or 20 as we have done. We picked 20.

Now, Madam President, on these 20 occasions, the People's Republic of China had an explicit opportunity to associate itself with the United States desire that it not be slandered, and disassociate itself with the attempt—typically it has Soviet origins but not always—to disassociate itself from the Soviet desire that we should be slandered. I speak without hesitation when I use that term. it is slanderous. And they are also nonsubstantive. They have no purpose other than slander.

Now, Madam President, on 20 such occasions, when the People's Republic of China had the opportunity to disassociate itself from a slanderous reference to the United States, on not one single occasion did it do so. To the contrary, on 17 occasions they voted to maintain the criticism, the slander of the United States; they voted directly against us; on 3 occasions they were absent. The voting record is perfect if you allow for three absences. There were no abstentions, where you can say, "We don't want to take a position." Every choice they made was a choice against the United States.

Now, I said that to Mr. Deng Xiaoping on August 27th at the Great Hall of the People. At this point Senator WILSON of California entered the exchange. He is not on the floor just now, and I hesitate to characterize his remarks in ways that he would not want me to do. But I do not think he would hesitate to have me say on the Senate floor what he said in the Great Hall of the People. I am sure, to the contrary, that he would as well prefer I did make the reference in this context.

Senator WILSON said to Deng Xiaoping:

> Mr. Chairman, we have to go back to our constituents and explain why we support, if that is the case, the agreement on nuclear cooperation which our Government, our Executive, has entered into with the People's Republic of China but which is subject to disapproval by the Congress. And obviously matters of trust are involved in such a relationship. How are we to explain this voting pattern to our constituents in terms of this is a nation with which we are on unfriendly, uncooperative terms.

What he said was perfectly sensible. He said, in effect, here we have this important agreement on this immensely sensitive subject, an agreement which presumes a level of trust which is high, and yet every time there is an opportunity at the United Nations to indicate a good, cooperative disposition., the People's Republic of China takes the opposite view.

It is not unimportant that this occurs in the United Nations. The International Atomic Energy Agency is a specialized agency of the United Nations.

Mr. Deng Xiao-ping did not respond to these specific remarks, nor did he respond to any of our interventions, as that is the phrase as the United Nations goes, but rather said his ministers would take them up. And perhaps they will. Perhaps they will have heard from the U.S. Senate delegation that we notice these things? Will we? I hope the Senate would notice them also in the context of the vote that is coming up on the amendment of the Senator from Ohio.

I wonder if the American negotiators who reached the agreement with the Chinese we are now considering, I wonder if they asked themselves what these votes meant. One of the most dangerous delusions that the Western mind is subject to these days—in this era—is the notion that things like this do not matter, that words do not matter, that slander does not mater, that associating yourself with assertions of the most venomous sort does not matter. It does matter. If there is any Senator on the floor who could tell me that during the course of the negotiations of that nuclear cooperation agreement any American negotiator so much as mentioned the record of the People's Republic of China with regard to the United States interests and views and ordinary concern for its reputation, I would be happy to hear it.

I doubt that on even one occasion in this entire negotiation—and it was a lengthy one—did anyone say:

> Well, now, we are going to have to have a measure of trust here. The People's Republic does not have the best-sounding record with regard to proliferation. You indeed went through the 1970's announcing that nuclear war was imminent and there was nothing to be worried about because if half of mankind disappeared in the course of the exchange there would still be plenty of Chinese left over.

Literally, that kind of talk you would hear from a Chinese foreign minister. And they looked forward with a measure of, I could not say anticipation but with great serenity to the coming nuclear exchanges, and they looked forward to proliferation as a natural right a nation takes and they welcomed that, too.

Well, that is not a very encouraging record. It is the case, Mr. President, if memory serves, that recently the Chinese People's Republic joined the International Atomic Energy Agency.

So they are members of the IAEA. They have not signed the nonproliferation treaty, nor do they propose to do so. They consider it an unequal treaty; and I would have to say that, from their perspective, it is an unequal treaty. Their experience of the 19th century probably precludes that kind of commitment. To join the IAEA, however, was a positive step, if it is accompanied by equally compatible conduct and international forums. I would have to say, Madam President, that I do not think it has been.

A country which votes with the Soviet Union 88 percent of the time in the General Assembly is not exactly a nation that has indicated any great interest in cooperation with the United States. The People's Republic of China, a nation which in 20 opportunities, has not once chosen to associate itself with the legitimate interests any nation has in its own good reputation.

With whom are we dealing here? What did the Department of State think it was doing? What did this administration think it was doing?

There was a time when these folks were generally referred to in this town as "ChiComs" and were thought to be very bad fellows, and that evidently is no longer the case.

I can see that persons in power might have great concern about communism and might moderate their views and deal with the realities of the existence of states, wanting to find ways to cooperate and, as always, wanting to find things to sell, which is natural behavior and not to be associated only with one administration.

Still, what do these U.N. votes suggest? Do they suggest that we have here a nation worthy of our trust? I do not know.

Do they suggest that we have here a nation concerned for the conduct of international affairs at a level of comity and respect for the good repute of members of the international community? I do not see that.

I see here a nation that has two polities: "We cooperate with you on a bipartisan basis and you give us technology we desire, and we slander you and vote against you and do everything we can to obstruct your interests when other nations are present."

That is not a policy that arouses confidence in this Senator, nor do I think it should arouse confidence in the Senate.

I think the Senator from Ohio is right in what he proposes to do, and I hope the Senate will support him.

Madam President, I will yield the floor, with the provision, if I may, that if there is any Member present or who joins the debate later can tell me that this United Nations record was brought up with the Chinese during this negotiation, I would be interested to know that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Madam President, I indicated before that when this agreement came up before this body for its consideration of the resolution of approval, there was not a word of debate on the Senate floor.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. COHEN. I yield.

Mr. MOYNIHAN. Did Senators who had come to the floor know?

Mr. COHEN. This Senator had no knowledge.

Mr. MOYNIHAN. This Senator had been prepared to make this speech every day since August 28, and I was sorry to learn in one day's papers that I was not going to have an opportunity to bring these matters to the floor, because the subject had been brought to the floor very late one night—I believe after an announcement was made to the effect that there were not to be any rollcall votes.

Mr. COHEN. I say to my colleagues that I have spent considerable time testifying before the Senate Foreign Relations Committee, as did Senator GLENN, making my own views known, talking to individual Members, hoping to have an opportunity to debate the issue. It was my hope that no matter how the vote came out, at least the Chinese would be put on notice that there was some strong disagreement with the way in which the agreement was formulated: The absence of clarity, the presence of ambiguity, the questions as to why we have a different standard. Why is there a different standard?

I think it is important that Members have an opportunity to express their differences of interpretation and agreement with respect to this kind of language contained in Senate Joint Resolution 238.

I thought the legislation of the Senate Foreign Relations Committee was a vast improvement over what was presented to it by the administration. Nonetheless, there is some suggestion being made that the Senator from Ohio—and I ask him this question—is simply trying, through his proposed amendment, to vitiate the agreement that was passed by the Senate in that midnight hour in which, as Shakespeare said, strange things occur.

A strange thing did occur: A major piece of legislation, about which many Members were concerned, went whistling through here, with not a word of debate, with virtually no notice to any individual Member.

I ask the Senator from Ohio: Is it his intent, with this amendment, to somehow vitiate the action that took place on the floor at 3 or 4 a.m., back in November?

Mr. GLENN. I appreciate the Senator from Maine bringing this up, because I would like to make it clear.

What I am proposing was not intended to, nor does it in any way, vitiate Senate Joint Resolution 238. It strengthens Senate Joint Resolution 238 in that part that has to do with verification, because in Senate Joint Resolution 238 the President has to certify that verification arrangements will be effective in ensuring peaceful uses of our nuclear exports.

My amendment supplements that by adding that a Presidential certification of the IAEA safeguards or their equivalent will be applied, and that is all. It does not vitiate any of the other provisions, does not change the language of it. It adds this strengthening provision.

So if there has been any misunderstanding about that, I appreciate that the distinguished Senator from Maine has brought it up so that we can make sure it is not misunderstood by anyone.

It does not vitiate Senate Joint Resolution 238. It adds a measure of effectiveness to the language on verification. Nothing else is altered. It just says that safeguards or their equivalent will be in place on any U.S. exports.

Mr. COHEN. I thank the Senator for his explanation.

Madam President, I ask unanimous consent that my name be added as a cosponsor of the amendment.

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

Mr. GLENN. I am honored to have the distinguished Senator from Maine aboard.

Mr. COHEN. I say to the Senator from New York that I was part of the delegation to the Far East. He did raise—as he has done on this occasion—the issue of the so-called two-America policy, in a very eloquent way.

Mr. MOYNIHAN. On behalf of the delegation.

Mr. COHEN. On behalf of the delegation, he did present a very eloquent case to Deng Xaio-ping and the leadership of the Chinese people. I think it was an important statement to make then and to make today.

I yield.

Mr. MOYNIHAN. Madam President, I ask unanimous consent that I be made a cosponsor of the amendment.

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

Mr. GLENN. I appreciate that.

Madam President, I call for the yeas and nays on this amendment.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. Who seeks recognition?

Mr. MURKOWSKI. Madam President, I wish to address the Glenn amendment at some length.

It is my contention that the amendment is unnecessary because its purpose has been basically addressed in Senate Joint Resolution 238.

The Foreign Relations Committee considered in detail the Nuclear Cooperation Agreement carefully with open and closed hearings and a classified intelligence briefing also took place.

At that time I recall the Senator from Ohio was the lead witness at our hearing, and there were four problems which set the agenda for discussion as a consequence of that meeting. Those four were ensuring peaceful use of exported items, ensuring that China's nonproliferation policies were sound, ensuring that all United States export laws would be applicable, and ensuring that United States has the right of consent to reprocessing or enrichment.

Madam President, Senate Joint Resolution 238 deals precisely with these points.

The committee in a bipartisan effort wrote the resolution in language which protected the interests of our Nation in a way most likely to allow peaceful nuclear cooperation and encourage further Chinese progress and stengthening the nonproliferation regime, safeguards to bilateral agreements between nuclear weapons states, and the Chinese have said before that they will not accept these.

The Glenn amendment describes the IAEA safeguards without really saying so.

The People's Republic of China recently said it would accept voluntary safeguards with IAEA as the other nuclear weapons states have done.

The committee noted that China had made great strides in this regard.

We have an interest in furthering the development. The resolution was reported out with an overwhelming majority and passed the Senate by a voice vote.

The State Department accepted the resolution, and it is my understanding will recommend that the President sign it into law.

Thus, should the Glenn amendment pass we will have a very confusing message vis-a-vis the House administration and the People's Republic of China.

I understand that the chairman of the Foreign Relations Committee, Senator LUGAR, cannot be here this morning, but I understand from his

staff that he is in opposition to the Glenn amendment.

It is inconceivable to me that we would attempt to mandate on the People's Republic of China the IAEA provision which we as a nation do not adhere to. Not having been here during the initial debate, I do not know whether my friend from Ohio has responded to that particular concern, but since we do not accept the dictates of this organization, I guess my question is an obvious one: Why would we expect to mandate it on an ally?

Mr. GLENN. Madam President, will the Senator yield?

Mr. MURKOWSKI. I am happy to yield for a question.

Mr. GLENN. Just in response to the comments there, we do have IAEA safeguards in our facilities here and all the other nations with which we deal have IAEA safeguards on those facilities at least that we have any association with.

That is all we would be requiring of the Chinese in this case. It would be that IAEA safeguards or their equivalent be in place just for the equipment, technology, or facilities that we would be sending to them under this agreement.

Mr. MURKOWSKI. Madam President, will my colleague from Ohio yield for another question?

Mr. GLENN. I yield.

Mr. MURKOWSKI. The countries that he mentioned, Brazil, Japan, Argentina, are these not nonnuclear weapons states and would that not be a distinction in itself, that there is substantial difference here since we are dealing with the People's Republic of China which has a substantial nuclear capability and as a consequence when the examples are used of Japan, Brazil, and others there is obviously a difference and that difference is they are nonnuclear, they do not have the capability?

Mr. GLENN. No; that is true. They are nonnuclear weapons states. But even they as nonnuclear weapons states were able to get the Chinese to agree to IAEA safeguards on all the nuclear trade that would be done back and forth with those states.

So, in effect, in fact weaker nations than our own, weaker nations than the United States are able to negotiate a safeguards agreement with the People's Republic of China and we apparently were not able to do that.

Now let me add this: They have similar agreements already in place that they have agreed to with the Japanese, the Brazilians, and Argentinians, and those were worked out. But somehow our negotiators said that the Chinese were adamant on making a similar arrangement for us. I think we just did not push hard enough.

This is certainly the bare minimum we should do, and all I am asking for with this amendment is that the President certify that there will be IAEA safeguards on their equivalent attached to our nuclear exports to the People's Republic of China.

Let me also say this: on the question as to whether we should demand safeguards of the Chinese when they are a weapons state and do not need our technology to make a weapon, I just respond that it is not true that our equipment and technology would not be useful in the Chinese weapons program. We will be sending electronic equipment and computer codes that will be useful to the People's Republic of China in modernizing their production reactors for making plutonium and for improving their nuclear sub reactors.

In addition, anyone who has followed developments in the international nonproliferation regime over the past decades knows how sensitive the question of trade discrimination between weapon states and nonweapon states has become. If we do not demand safeguards of the Chinese, then we are saying to India, to Israel, to South Africa, and others, that all you have to do is declare yourself a nuclear weapons state and we will be glad to send you nuclear equipment and technology without safeguards. What does this say to the over 100 other nations that have agreed to safeguards in response to our offer to cooperate with them?

Mr. MURKOWSKI. Madam President, I wonder if my colleague will yield for another question.

Mr. GLENN. I yield.

Mr. MURKOWSKI. Is China not required to maintain life safeguards with nonnuclear weapons states since it has signed the IAEA as of January 1984?

Mr. GLENN. No; there is no requirement.

Mr. MURKOWSKI. So there is a reciprocity that has already been established, is there not?

Mr. GLENN. No; there is not such a requirement by joining IAEA.

Mr. MURKOWSKI. I intend to examine a little bit further because it is my understanding that there is in the relationship with China and the IAEA indeed at least an inferred offer that there is an agreement on maintaining life safeguards with nonnuclear weapons states.

Mr. GLENN. Madam President, will the Senator yield just for a clarification?

Mr. MURKOWSKI. I am happy to yield.

Mr. GLENN. Joining the IAEA does not mean that IAEA safeguards are applied then automatically on every agreement that China would make with another IAEA state.

I believe the arrangement there is that these agreements are still worked out on a bilateral basis for each and every agreemet that is made. All they have done in becoming a member of the IAEA is that they will support that organization and their worldwide efforts to put equipment and inspectors out there to monitor the facilities that have been put under IAEA safeguards, and they have agreed to be a member of that organization to do that.

Then any subsequent arrangements, as I understand it, that are made from the People's Republic of China or with anyone else is made on a bilateral basis just as we indeed ourselves are trying to work out a satisfactory agreement right now.

Mr. MURKOWSKI. That is my understanding. I thank my friend from Ohio.

I wonder if we could go back to one other point that I touched on earlier that I think needs further examination, and that is the matter in which we are attempting to dictate to the People's Republic of China, as a nuclear state negotiating with another nuclear state, to dictate that they must accept what we, in effect, are not prepared to accept as a nuclear state in being bound by the IAEA as a nuclear state. Is there not a substantial difference there in mandating that the People's Republic of China adhere when we do not accept such a mandate ourselves? I think, from the standpoint of a perception, that is a very real one and one that concerns us in our negotiations with the People's Republic.

Mr. GLENN. I would respond to the Senator, because the case is not as the Senator stated it. We have IAEA inspectors inspecting certain of our facilities in this country right now. We have agreed to that. It is not all of our facilites; it is not our nuclear weapons preparation facilities, nor will our agreement with China cover any IAEA inspection other than just the American-supplied plants, technology, equipment, whatever, that are covered under these agreements yet to be worked out.

That is all that would come under IAEA.

We could ask that they put all of their total nuclear programs under IAEA, but we do not do that in this country nor do we require that of other weapons states. But our relationship with other weapons states is such that we require safeguards even with the other weapons states. We do not send things in unrestricted to the United Kingdom or France or anyone else without having an agreement on third-party transfers, consent rights, and safeguards, and so on.

That is all we are asking in the one little area of safeguards, the tiny little area of safeguards, that we do no less than what we are doing with other nations.

Mr. MURKOWSKI. I think that is my very point. I would point out to the Senator from Ohio that what we do is voluntary. We do allow, as stated, IAEA, on the basis of observations, in certain areas. We do it on a voluntary basis. We are mandating, as I understand the Senator's amendment, that this be done as a matter of condition for the nuclear nonproliferation with the People's Republic of China.

Now, why is it not appropriate that they, too, be allowed the option of a voluntary IAEA inspection? I think that is the difference that we are concerned with here, is it not?

Mr. GLENN. These are reciprocal arrangements, I say to the distinguished Senator, such as we worked out with Canada, Australia, the United Kingdom, France, and every place we do nuclear trade with. In effect, if this goes through now without requiring at least the equivalency of IAEA safeguards, we would be, in effect, saying to the world's largest Communist nation—not that I want to raise all the Communist bugaboo in this context—but we would be saying to them, with their past record of supporting proliferation through the last 20 years or so, up until just 1 year age, they decided now they will not have that policy, and we are saying that the least we can do with American technology and equipment going over is to provide safeguards or their equivalent, as we do with other countries with which we have nuclear trade.

Mr. MURKOWSKI. I thank my friend from Ohio. But I believe one could deduce that a case has been made in the manner in which we allow, as a consequence of policy, a voluntary observation, then it seems to me that to attempt to dictate or mandate that the People's Republic of China has to operate under a different set of circumstances is something that is quite naturally offensive to the receiving country and, as a consequence, it would have been more expeditious had this matter been addressed in committee than at this rather late date to suddenly decide that we are going to change the rules and mandate a different set of procedures than we, indeed, are bound by ourselves.

Mr. GLENN. Will the Senator yield for a question?

Mr. MURKOWSKI. I am happy to yield.

Mr. Mr. GLENN. What are these different requirements that we are putting on China that is different from those we do with reference to others that the Senator referred to?

Mr. MURKOWSKI. I am referring specifically to the fact that the United States maintains a voluntary acknowledgement under the ability of the IAEA to come in and do observations and other matters. We allow that. I am sure the Senator from Ohio would agree that the People's Republic of China could equally, as well, allow that type of voluntary observation.

Mr. GLENN. Madam President, so we make this very clear, our safeguards arrangement in the United States include those that were worked out as part of our bilateral nuclear relationships with Canada and Australia, if they send material to a United States nuclear facility. The IAEA safeguard inspector comes in and inspects those facilities.

I am glad the Senator brought the point up, because it is absolutely identical to what we would be proposing with China. We are working out a nuclear agreement with them. We are saying that as part of that agreement, we want any equipment we have there to be under the equivalent of IAEA safeguards. It is exactly what Canada insisted that we do, and we did it. It is exactly what Australia inisisted we do, and we did it.

All that I am asking for here is that before shipment can be made, the President will certify to us that the equivalency of IAEA safeguards has been provided for. It is so simple and straightforward and it is what we have agreed to with Canada to do in our country here.

To even go a step further, we say it will not be just the Canadians who are allowed to come in and inspect—we say the IAEA inspectors can come in and represent Canada and represent Australia.

Mr. MURKOWSKI. Well, while I appreciate the intent of the amendment of my friend from Ohio, I am wondering if he would care to respond to the light that this puts our relationship in with the People's Republic of China, in view of the previous committee action on this matter and the position that suddenly here, at a rather late time in the session, there is a change, a proposed change. While, obviously, our own national security is an item of utmost interest to the United States, the Senator from Ohio is addressing a rather narrow area in his amendment. There are those of us on the committee that feel that the safeguards have been adequately addressed and that, indeed, this puts the light as requiring the People's Republic of China to do something that we, indeed, would not mandate on others nor ourselves.

Mr. GLENN. Let me respond by saying we do mandate them right now on others and we have even done this in our own agreement here, as we just discussed, with Canada and Australia, and we go a step further. We permit IAEA safeguard inspectors to actually come into our country. Let me add also that this does not vitiate Senate Journal Resolution 238 in any way, shape, or form. It just strengthens it. Instead of just saying "effective," which is the language that came out of the committee, we are saying that "effective" will be defined as being IAEA safeguards or the equivalency thereof. And that is very straightforward.

Mr. COHEN. May I respond to the Senator's question about what does this do to our relationship with China, and why do we come at this late hour?

I point out there was a delegation of seven Senators who happened to pass through Alaska as I recall, stopped in, and paid a visit with the distinguished Senator from Alaska on our way to the People's Republic of China. We discussed this at some length with the leadership of the Chinese people—that there were Members, including the Senator from Maine, who were concerned about the nature of the agreement, and that it was going to be the subject of some debate in the U.S. Senate. Unfortunately, the Chinese people were put on much more notice than we were in the United States Senate. When this agreement or the resolution was brought to the floor at 3 or 4 in the morning, no notice was given to the Senators who were concerned about the legislation.

The Chinese leadership has been aware, certainly since August, that there was going to be a debate. Unfortunately, there was no debate because the committee chose to bring it up for unanimous consent during the course of debating another measure at 3 or 4 in the morning with no notice to the Members. That is why this amendment is being brought up today under these circumstances.

I do not think it will take the Chinese people by surprise, cetainly not as much surprise as the Members of the Senate were taken by when they found out that we approved it by voice vote with very little or no notice.

Mr. MURKOWSKI. I remind my colleague from Ohio that both Canada and Australia, it is my understanding, do not have the same safeguards as we have with them because they basically are nonnuclear states. I think the debate could go on at great length as to the difference between the agreements under binding nonnuclear states with nuclear states, and indeed the role of the IAEA. I do not differ with my friend from Maine with regard to the attitude of the Senate——

Mr. GLENN. Will the Senator yield?

Mr. MURKOWSKI [continuing]. With regard to this matter. I will yield in just a moment because I am about to conclude my statement. I want to follow my train of thought.

I think, indeed, the committee gave this matter a good deal of consideration within the committee itself, addressed the concerns that are being expressed here today, and felt if we are to have a meaningful relationship with the People's Republic of China on this matter that the safeguards are

sufficient without the inclusion of the additional requirements under the Glenn amendment.

I think the records of the committee would reflect that there was a full discussion and adequate debate on the concerns of the Senator from Ohio.

Mr. GLENN. I respond by saying that we had the Congressional Research Service check out the degree to which we have agreed to IAEA safeguards and what the other nations have done, Canada, Australia, and so on. We were told by CRS that they were reciprocal. So there is not that difference between the agreements.

In fact, we don't require any new negotiations with the Chinese. Because in the language that came back as part of that agreement from China, what was agreed to with regard to verification of peaceful uses, the agreement language says:

> The parties will use diplomatic channels to establish mutually acceptable arrangements for exchanges of information and visits subject to this agreement.

The problem with that is there is no standard provided in that for verification of peaceful uses of exported equipment or materials or technology. The diplomatic discussions will not be completed until the congressional review is finished, and the agreement is in effect.

All we have asked for, and all I am asking for to correct this stituation is that the President certify that those arrangements are in place, and that they are equivalent to IAEA safeguards.

But let me go back a little bit further, too. One of the reasons I am disturbed about this arrangement with China is that we were asked many, many years ago to accept similar agreements with India, and do not worry about the Indians understanding this thing, their interpretation of it is the same as our understanding of what went on with the negotiations, India indeed is the world's largest democracy, we have been friends, and there will not be any misunderstandings.

Yet I submit to my distinguished colleague that what happened in not spelling out in the first place what our intent was, soured Indian relations to this very day. When we passed the Nuclear Nonproliferation Act of 1978, we had to decide whether we were going to ship fuel to India that in 1974 had exploded a nuclear device—they called it a PNE, peaceful nuclear explosion, but a bomb is a bomb is a bomb by any other name and could be used for other purposes than peaceful nuclear explosive capacity—they wanted us to ship more fuel to them.

That is where we got into a great misunderstanding about what our original agreement was with India. We debated some long, hard, tough hours on this floor about whether we would make that shipment to India. When the shipment was approved, I felt we violated our own precepts just established in 1978, then under the Nuclear Nonproliferation Act. I thought those precepts that we had set forth for our leadership position in the world were being violated.

So the point is that not understanding thoroughly the agreement, insisting on what we really meant, and not getting their agreement to it sours our relations with India to this day.

I just do not want to see a similar situation with misunderstandings going in that might lead to souring the relationships, our budding relationship, and I hope, our expanding relationship with the People's Republic of China.

Mr. COHEN. My response to a question posed by the Senator from Alaska perhaps conveyed slightly erroneous information regarding the time the vote occurred on this particular joint resolution, Senate Joint Resolution 238. The previous night we had been in session until roughly 11 o'clock in the evening following an all-day session. This measure was brought up the first thing the next morning by the two leaders about 9:30 or 10 o'clock that morning.

So it did not occur at midnight. It was going to occur apparently at midnight. They postponed it until the first thing the next morning when there were a scant amount of people on the Senate floor.

Mr. GLENN. If the Senator will yield there, I am not saying there was skullduggery afoot here on the committee. Far be it from me to accuse the committee or people on the committee of what happened here at that time. But I know there were some very drastic misunderstandings. I will put it this way. Our Cloakroom on the Democratic side says the call went out at 11:23 a.m., 2 days earlier notifying everybody on the hotline.

There had been some work going on in our office. Maybe we did not get the word. Senator MOYNIHAN said his office did not get the word. The Senator from Maine told me his office did not get the word from the Republican side. Maybe something happened to our communications system. But people that were leading this knew very well that some of us were interested in this and didn't contact us.

I say in the past when something like this has been about to come up I personally notified the people I knew or people on the other side of the issue. That is just a matter of courtesy here. I thought that where we knew this was an important matter as it is, where we had very strong thoughts and legislation actually proposed, I know the hotlines are supposed to do the job for us around here. But in that case they apparently failed us. I did not like that being brought up on a voice vote with almost no one present. I agree very much with the Senator from Maine.

Mr. MURKOWSKI. I wonder if the chairman of the committee might respond. I know the Senator has been very active within the committee.

Madam President, there were 2 full days of hearings in the Foreign Relations Committee on this matter, Senate Joint Resolution 238. There was also a classified briefing. To suggest that there was anything but deliberations within the committee I think is an incorrect assumption.

The Senate Joint Resolution was voted out 14 to 3, which certainly indicates overwhelming support for the action.

I think we can discuss this at greater length, and we may well do that, but I think it is fair to say that Senate Joint Resolution 238 does require the President to certify that the arrangements are designed to be effective in ensuring that the U.S. nuclear exports are used solely, and I emphasize solely, for their intended purpose.

The language is very clear. This serves the same purpose as the amendment proposed by my colleague from Ohio without basically killing the amendment. That is what I am inclined to think is going to happen if he prevails.

For these reasons, it is my intent to urge the Senate to defeat the amendment.

I yield to my colleague from Washington, if I have the floor.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Madam President, I would like to make a couple of clarifications.

The Senator is quite correct, there were 2 full days of hearings held before the Senate Foreign Relations Committee. That, in itself, ought to tell the other Members that this was considered to be a serious matter.

There was a classified briefing, and that, too, is a very serious matter. Frankly, there was some leakage of information that occurred on this issue which could very well have jeopardized some individuals, and which I thought was really not in keeping with the Senate's obligation in this particular matter.

There were 2 days of hearings and the classified briefing, very sufficient consideration given by the Senate Foreign Relations Committee. The insufficiency that comes about is the insufficiency of notice of Members of the Senate who wanted to debate this, for which we must accept some measure of responsibility ourselves. No one put a hold on the joint resolution.

As a result, it was slipped through by a unanimous-consent agreement arranged with the two leaders with very little in the way of advance notice.

The notice came in the morning. It did not occur at midnight, but it came the following morning after a very late session in the Senate.

There were many of us who felt that, because we had expressed interest before the committee, we would have the chance to express the same interest here on the floor if for no other reason than not only to praise the work done by the committee but to put the leadership of the Chinese and others on notice that we were greatly concerned about the issue, greatly concerned enough to want to debate it for perhaps a day or less. At least to clarify the concern that Members had about the remaining ambiguity that existed in the nature of the agreement and in the nature of the understanding accompanying the agreement. That is the complaint.

We are at fault ourselves for not having put a hold on the bill. We ought to admit that. It was not the Cloakroom's fault. It was not the hot line's fault. It was our fault for not putting a hold on the bill, and we ought to accept that.

Mr. GLENN. That is correct.

Madam President, let me respond to the committee action and my distinguished colleague's comment, that the committee insisted on having the word "effective" in there.

Let me ask him, if I might, did the committee define what would be "effective"? Did they set down the criteria of what "effective" means in this case?

Mr. MURKOWSKI. I am sorry, I did not know the question was addressed to me.

Mr. GLENN. I will restate the question. The Senator made a good point that the committee took this up, considered it at some length and had briefings on it. I had the same classified briefings that the committee had, so I am aware of what was discussed in those.

The wording that was used was that it would be "effective." How does the committee define "effective"? What are the criteria?

Mr. MURKOWSKI. I do not think there is a definition of expressing a judgment. Obviously, it would be what is in the interest of our national security. As a consequence, to attempt to spell out mechanical guidelines or parameters by which the President would make this judgment would basically take the responsibility away from the President and disallow him the opportunity to make an evaluation and put it into the hands of the Congress. That is what we have done here. What we are proposing is to give the President that authority as we give him authority to make other judgments on behalf of the national interest.

What is essentially equivalent is, I think, what is in your amendment.

Mr. GLENN. What I said in my amendment is that the IAEA safeguards would be there. That is very specifically spelled out and is considered the norm for the whole world, for everyone involved in nuclear trade. IAEA safeguards have been the norm.

Mr. MURKOWSKI. I might refer my colleague to that page of the amendment which states, "Inspection is essentially the equivalent."

Mr. GLENN. Essentially equivalent to IAEA safeguards is what it is referring to there.

Mr. MURKOWSKI. Does my colleague not think that the office of the President can appropriately interpret just what Senate Joint Resolution 238 is all about?

Mr. GLENN. Let me respond by saying that we have three centers of power in our form of Government. We do not turn everything over to the President. We do not make him a dictator. This is not a monarchy. We make our laws here and interpret those laws. We have them spelled out. We try to make a legislative history to spell them out as completely as we can so that the executive branch can then administer those laws and execute those laws with the intent of the Congress. We are the ones who represent the people here.

We would not leave it up to the President, just to say to him, "You put on whatever taxes you think are necessary, or you call off whatever taxes you think are unnecessary. You do whatever you want with regard to the military, Mr. President, because we know you are infallible in your judgments."

We do not do that here. Neither do we turn over our nuclear policy to him. We passed the Nuclear Non-Proliferation Act in this body to spell out what the President would do.

We do that all the time. We define the role of the President in this and what is expected in him carrying it out. That is what we do in this particular case.

We do not want to leave it so vague that any agreement where the word "effective" is used is acceptable. It would be much better to me if we had it so that the President would determine it as we defined with either the IAEA safeguards or their equivalency.

Mr. MURKOWSKI. I think that is a basic difference in what the committee has and what is at issue here today. It varies with the position of my colleague from Ohio, and specifically on the question of whether Senate Joint Resolution 238, as written, addresses the issue adequately by allowing the President to have the flexibility of foreign policy in this area, which represents an application of our foreign policy which traditionally has been a function of the office of the Presidency, and allows his judgment to prevail.

While I respect the opinion of my friend from Ohio, I personally take issue along with a majority of the committee that indeed the President has the obligation in many areas where policies and authorities are given to the President. This is just another case of authority being given to the President and the President dealing with it accordingly. The other alternative is the suggestion of my friend from Ohio which would mandate the provisions and take away the flexibility of the President. With all due respect, that is where we differ.

Mr. GLENN. Will the Senator yield for a question?

Mr. MURKOWSKI. I shall be happy to yield.

Mr. GLENN. Would the Senator accept an arms control agreement with the Soviets with no verification provisions except for the certification by the President that the arrangements he negotiates will be effective, without any further Senate approval of such an agreement?

Mr. MURKOWSKI. Of course not, Mr. President. That is not the question here.

Mr. GLENN. Mr. President, it is exactly the question.

Mr. MURKOWSKI. I think not. I think our relationship is entirely different. Obviously, the momentum has been generated with the People's Republic of China. It has been substantial and to suggest that there is a similarity between our relationship with the Soviet Union and that with the People's Republic of China—I really do not feel that it deserves debate at this time.

Mr. GLENN. Mr. President, I think it does deserve debate. But I think it is about the same. In fact, in some ways, it is worse, because we have a long history of dealing with the Soviet Union on arms control. We know what to expect. With the People's Republic of China on this matter of nuclear agreements, up until a year ago, their policy was to proliferate with the non-nuclear states of the world and they have stated that as a policy. To ask them to adhere at least to the equivalent of safeguards on materials and equipment and technology that we send out to them is just very prudent.

Mr. McCLURE. Mr. President, I approach this subject with some mixed feeling. Here we are, on the 9th day of December, supposed to be the last week of our session; at least, we are being told that it is, or that we hope it will be. I guess realism says it may not occur by Friday of this week. On last Friday, on several occasions, the Senate was put on notice that this matter would be before the Senate this morning. We got here—I have been here since the hour of 11 a.m., when this matter came up. It is difficult to get the responsible parties to

the floor to debate the issue. I say that in spite of the fact that the debate has been going on for 3 hours already, but it is pretty largely—it is more than monolog, but scarcely more than dialog.

That is all very interesting and it is a very important subject. I do not denigrate the rights or the feelings of any Member who has brought it to the floor here today, because I think it does come out of the surprise that many felt, that this matter went through in the Senate Foreign Relations Committee; the resolution was passed on a voice vote. I suppose the Senate is now paying the price of that action having been taken.

I particularly appreciate the distinguished Senator from Maine making the statement he did a moment ago—perhaps we should all have put holds on that matter when it came up and then we would have had the debate at that time rather than postponing the debate until now.

I also want to assure the staff of the respective cloakrooms that so far as I can tell, the staff dealt with this in an appropriate manner. Under the rules of the Senate, the practice is, at least on this side of the aisle, that matter had been reported from the Foreign Relations Committee by a vote of 14 to 3, which by some standards, at least, would have seemed less controversial than others had felt; it had been on the calendar for 6 days. Nobody notified the cloakroom that they wished to speak on the subject, let alone debate it. So it was not at all unusual, under those circumstances, that at the time of the calling of the calendar, it would have been cleared by the leadership on both sides.

I am sure the distinguished Senator from Indiana, the chairman of the Foreign Relations Committee [Mr. LUGAR], had been indicating that it had been cleared by the committee by that kind of vote and, therefore, ought to be considered expeditiously on the floor of the Senate.

But it is a controversial issue. The Senator from Maine has referred to the trip that a number of us made to a number of places, including the People's Republic of China, and that at each meeting, when we were meeting with responsible officials of that Government, they were put on notice that this matter was controversial in the United States, that it would be debated in the United States Senate, that certainly it was a closed question, in my mind. I stated in each instance that I had the opportunity to do so that while I favored the agreement—and I do favor the agreement—there are many in our country and in this body who do not, and because they do not favor the agreement or they think it does not have some of the requirements that should be stated, it would be debated.

I agree with the statement of the Senator from Alaska that the Foreign Relations Committee has dealt responsibly with this matter and Senate Joint Resolution 238, that was adopted by the Senate by voice vote, in my judgment, goes at least 90 percent in the direction of requiring the kind of appropriate actions by our Government to guarantee, as far as it is possible to guarantee, the security of this arrangement.

Mr. President, we have certainly much to talk about. I know the Senator from New York had indicated earlier that he had been waiting for months for the opportunity to bash China and suitably did so in his remarks this morning. I do not say it is not related to the subject matter of this agreement. It is, in a tangential way, at least, an important consideration. Maybe we ought at some time to debate whether or not we should have any kind of relationship with the People's Republic of China and whether or not we should have extended recognition of that Government.

But we have. The question of their conduct in the United Nations is a matter of concern to a great many of us, just as is our relationship to the United Nations a matter of great concern to many of us.

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

Mr. McCLURE. I am happy to yield.

Mr. GLENN. Let me make very clear something I should have made clear at the outset. I am not against having this agreement with the People's Republic of China. I favor it. I want to expand our relationship. I lived in China right after World War II and I have had a tremendous interest in that country and its development ever since that time, all the things that occurred in between. I want to see this agreement go through, but with the proper basis and the proper understanding on both sides that we understand and they understand so we cannot have a repeat of the Indian misunderstanding that sours our relationship to this day.

Mr. McCLURE. Mr. President, I understand the position of the Senator from Ohio. I heard him make the same statement earlier today, and I do not question his motive at all in that regard. I accept that on face value and upon his word.

I was one of those who did appear before the Senate Foreign Relations Committee in their hearings and testify in favor of the agreement. I say that even though I testified before they took their action in reporting out this resolution. The resolution not only approved the agreement, but went further to reestablish some conditions and requirements upon our President in regard to the agreement. But I think that in spite of the fact that this debate has been going on for over a year, it is time for us as a Senate to do what was done in the adoption of Senate Joint Resolution 238, affirm our support for our Government's policies. With the appropriate conditions as established in Senate Joint Resolution 238, I do not think it is necessary to go further.

I do not believe that the debate is important. I do believe it is important for the People's Republic of China to hear it and to understand that this body is divided on that issue and that this body is going to watch the development of the relationship of nuclear and other matters very carefully and that, indeed, while we are not advocating the abrogation of our recognition of the People's Republic of China at this time, that is something which is in the minds of at least some—not of this Senator, but in the minds of some—and this nuclear nonproliferation question is a troubling question in the minds of a larger number. Therefore, it is important for them to hear that we are concerned about that relationship. I think I can understand some of the reasons for their reluctance. I have heard it suggested that we have better arrangements with other nations, and indeed we do. The other nonweapons nations have more restrictive agreements than we have with weapons nations.

It has been suggested that somehow we ought to do as much here as we require of, say, Brazil or Pakistan. The situation is different, I would submit. We do have a different kind of arrangement with the Government of the United Kingdom, very similar to the kind of arrangement we have here. It has been suggested that the United Kingdom has a tighter relation through EURATOM. As a result, therefore, we can depend upon that relationship. Well, I would say that while China is not a member of EURATOM, they have become a member of the IAEA. They joined that organization, the International Atomic Energy Agency, in January 1984. In October 1985, they were made a member of the board of directors of that organization. They have submitted themselves to the safeguards that are required by that organization in their relationships with nonweapons countries.

Yes, I am concerned as to whether or not trade or commerce or technology that may be transferred would be transferrable to the weapons sphere. And there is a difficult line to draw between the peaceful, civilian uses of nuclear power and nuclear materials and the weapons applications of technologies and materials. But we do deal with the weapons states in a way that we do not deal with others, and what China has demanded of us in the agreement so far is that we do not single them out to demand something

of them that we do not demand of other nuclear weapons states, a matter of pride, if you will—some call it face—that they not be singled out for special treatment by the United States.

I can understand the concerns of many people in this country who say, "But they should be treated differently. They are a communist country. They have not been friendly to the United States." As my friend from New York pointed out in his rather long and eloquent speech, they vote against us in the United Nations all the time. And the others, with whom we have relationships in the nuclear trade are perhaps friendlier to us. But we are evolving a more friendly relationship with the People's Republic of China, and I think it is important for us not to stifle that movement. It is clear to me that the significant political and security gains the United States will achieve by endorsing this historic agreement far outweigh any of the publicized potential risks.

Are they moving more closely to us in position on these matters? I think it is important for us to look at the record, because the Chinese Premier in January 1984 in a toast at the White House said, "We do not engage in nuclear proliferation ourselves, nor do we help other countries to develop nuclear weapons," In May 1984, Premier Chou said in his Government report delivered at the sixth National People's Congress, "But we by no means favor proliferation, nor do we engage in such proliferation by helping other countries develop nuclear weapons." In September 1984, the Minister of the Chinese Ministry of Nuclear Industry said to the General Conference of the IAEA that China will "take a discreet and responsible attitude so as to ensure that nuclear cooperation is solely for peaceful purposes." These statements were reaffirmed by China at the 1985 Geneva conference.

I recognize that words are easy to utter and deeds are harder to come by and perhaps more accurate measurements, but if you look at their conduct in their negotiations with other countries and the application of safeguards to the civilian trade between China and other nonweapons countries, I think you would find that, indeed, their actions comply with the words as stated in their most recent statements over the last 18 months.

Mr. President, I think we are making a great deal of progress in our relationship with China on this precise point, but I agree with my friend from Maine that they need to be put on notice that there is a debate in this country about this issue and just as we did in our meetings with them try to notify them that that debate was real. I hope they will believe from the debate here on the floor of the Senate that this debate is real.

I join my colleagues in opposing this amendment, and I hope that a motion to table will be offered and will be successful. But in spite of that, and if that is the outcome, I want the Government of the People's Republic of China and the leaders in that Government to understand that we are very serious about this matter and that while we may resolve it in that manner today—and I hope we will—it does not mean that they must be less attentive to the concerns of the people of the United States as expressed in the debate and the actions here.

If, on the other hand, the motion to table fails, if by any chance this amendment should be adopted, it would be my hope that it be dropped in conference. But if not, if it should become the law of the land, I would hope, I would express the devout hope, that it would not have the result which some people are suggesting that it does, that it would in effect abrogate the agreement and require renegotiation of the agreement.

That is a very real possibility, Mr. President, I hope it is not a reality in the event that this should be adopted. I notice the Senator from Ohio has indicated that he believes it would not require renegotiation, it would not abrogate the agreement, but there are others who say quite the contrary. And if their advice is correct, it would be a devastating blow to the relationships that are so fragile, that are so important, and that are gaining for the peace and security of the world some additional, some additional safeguards in nuclear proliferation.

Let me underscore that last point in conclusion, Mr. President. China does not have to do business with the United States in nuclear trade and technology. They can deal with other countries in the world in a way that would be devastating to the nonproliferation goals of this country if they choose to do so. The fact that they are not, the fact that they are moving in their public statements to the position we have long held should be viewed as a success of our policy and as a result of our conversations with them. If we decide that we do not want to have that relationship, if we break off that relationship and those talks, I would say that the peace and security of the United States and the advancement of our nonproliferation goals would be severely jeopardized. Mr. President, I hope this amendment is not agreed to.

Mr. COCHRAN. Mr. President, I rise in opposition to the Glenn amendment. I urge Senators to recognize before this vote that the Senate Foreign Relations Committee has already acted to set in process the carrying out of the United States-China agreement. The amendment in my judgment would require us to write into the relationship requirements that are not contemplated by the Non-Proliferation Treaty. The United States-China agreement already provides for arrangements that are designed to ensure that any U.S. exports are used for peaceful purposes. I am afraid, if the amendment is agreed to, it would cause a devastating setback in United States-China relations. We made a great deal of progress with the Chinese in the nonproliferation area. Senators should know that there is a provision in the agreement relating to visits to facilities, for exchanges of information, on national accounting and control systems, to help ensure that any U.S. exports under the agreement would be used for peaceful purposes.

The House is going to act tomorrow on Senate Joint Resolution 238, I understand.

It would really cause an unraveling to take place of this entire arrangement if the Senate would vote today in support of this amendment. What the amendment does is to preclude the use of any funds for licensing or export approvals under the agreement unless arrangements between the two nations are made to impose IAEA safeguards that are the same as if we were dealing with a nonnuclear state.

I sympathize with the concerns of the Senator that we do everything in our power consistent with our national interests to prevent the spread of nuclear weapon technology and capabilities, and I certainly support that goal. But I hope that the Senate will not approve this amendment, because I am afraid it would not have the intended effect and would cause irreparable harm to our relationship with China.

Mr. EVANS. Mr. President, I think this has been a good and useful debate today, and I join those who suggest that we should have had this debate prior to a final vote on Senate Joint Resolution 238. But we are where we are.

I will take just a couple of moments to summarize, and then it will be my intent to move to table the amendment of the distinguished Senator from Ohio.

Before I do that, however, I should respect his unquestioned expertise and leadership in this field. He has been a student of nuclear proliferation, and that is to the great good of this Nation and this body. So it was with unusual attention that we in the Foreign Relations Committee listened to his testimony when he appeared before the committee on essentially the same subject. It was largely because of his testimony and that of the distinguished Senator from Idaho and others who appeared that the provisions in Senate Joint Resolution 238 were included.

We also were concerned, of course, about the effect of adding provisos to an agreement which had been reached and signed between the two nations.

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So we were very careful to bring into the consultations members of the administration. We felt that through the Foreign Relations Committee we had done the job of responding to the concerns and the needs of the Senator from Ohio and had done so without bruising the relationships between the United States and the People's Republic of China.

I speak today on behalf of the chairman of the Foreign Relations Committee as well as myself. He, unfortunately, cannot be here at this time but feels very strongly that we would bruise the relationships with the People's Republic of China if we were to take the action suggested by this amendment.

The Senator from Ohio questioned what the word "effective" meant. I suppose the same could be asked what is meant in his amendment by the term "essentially equivalent." We can all argue a little about the extent of the word "essentially" and the word "effective." I think "effective" has a pretty clear meaning, the dictionary meaning. It means just that: that it is something that will be carried out, and will be carried out with the intent and with the purposes of those who had signed the agreement, to make the things happen that they want to have happen.

There are three bases of power in this Government, the three branches of Government. Congress should have and cannot give up its constitutional right to comment and to provide law, and in doing so to give the administration their marching orders. But foreign policy, as some of my colleagues have said, is dramatically of Presidential leadership.

I think that in this case we have come down to a fairly simple question. It takes two to reach an agreement. To reach an agreement as sensitive as this one requires some delicate crafting. There is some give and some take. We probably did not get everything in this agreement that we wanted, and neither did the Chinese. Once that agreement had been reached, it was then submitted to Congress for its consideration.

I believe that the Foreign Relations Committee has carefully considered and modified the agreement, through Senate Joint Resolution 238, in an appropriate way to protect America's interests, to respond to the concerns of the Senator from Ohio, and to do so without potentially bruising their relationships with the People's Republic of China. I think that is the responsible and appropriate way for the Senate and Congress to deal with an agreement such as this, in making such modifications in it as they desire.

Mrs. KASSEBAUM. Mr. President, Senator GLENN has raised an important issue with this amendment. One that I consider particularly significant. However, I also consider the leadership's effort to keep amendments off the continuing resolution, an important one. Therefore, while I continue to support Senator GLENN's effort, I will support a tabling motion.

I was one of the original cosponsors of Senator GLENN's bill, S. 1754, to require that before this country licenses any nuclear exports to China, the president would have to certify that the key questions have been settled with the Chinese. The key questions, in my view, were the lack of a provision for safeguards on United States exports and no written statement by the Chinese of their nuclear nonproliferation policy.

I agree with my colleague from Ohio on the flaws in Senate Joint Resolution 238, the compromise resolution approving the agreement with the Senate passed by a voice vote on November 21. This compromise fell far short of addressing the cloud of unresolved doubts which continues to hang over the agreement.

I voted against this compromise in committee because it did not adequately address my concerns about safeguards. Nor did it adequately address my concerns about China's nuclear nonproliferation policy.

I welcome our growing trade relationship with the People's Republic of China. I also welcome the improvements that have occurred in China's nonproliferation policy over the past few years, including joining the IAEA.

But even when we are dealing with friendly governments, I think it is critical that we apply objective and strict standards to cooperation agreements in this very important area to ensure that any nuclear material, facilities or components provided by the United States be used solely for peaceful purposes.

As Senator GLENN has pointed out, the United States-China agreement contains no provision for verifying peaceful uses of our exported nuclear materials or equipment. Instead the agreement calls for discussions leading to "visits" and "exchanges of information." I also agree that the recent passage of Senate Joint Resolution 238 did not fix this problem. It merely stated that the President must certify that the verification arrangements are "effective" without providing a standard.

I do not think that it is pushing the Chinese too hard if we ask for safeguards equivalent to IAEA safeguards to apply to United States nuclear exports to China. The Chinese have already announced that they will make a voluntary offer to the IAEA to allow safeguards on some of their nuclear facilities. The Chinese have also signed nuclear trade agreements with Japan, Argentina, and Brazil in which IAEA safeguards on all exported items are required.

In our future discussions with the Chinese on this issue, provided for in the agreement, I hope that both our negotiators and the Chinese recognize the wisdom of applying safeguards similar to those equivalent to IAEA safeguards. Neither we nor the Chinese will benefit from future misunderstandings which can potentially cause lasting harm to our relationship and to the nonproliferation regime. We may already be sending a dangerous signal to the rest of the world that we consider IAEA safeguards too restrictive.

I also think it is very important that the Chinese unambiguously clarify their nonproliferation policy and their interpretation of the nuclear cooperation agreement. In my view, this is of particular importance given the Chinese record on nonproliferation. As early as last year, after the agreement was originally signed, Chinese technical personnel were reportedly discovered at the clandestine Pakistani nuclear enrichment plant at Kahuta. All other nuclear weapon states and the 125 nonweapon states that have signed the Nonproliferation Treaty have, in effect, issued such statements.

I do not understand claims that clarifying a 30-year agreement will undermine our relationship with the People's Republic of China. Cooperation and good relations can only be strengthened between the two sides if there is a clear understanding of agreements.

As this agreement now stands, the State Department has provided us a confidential summary of discussions which has not been formally endorsed by the Chinese Senate Joint Resolution 238 only requires that the President certify that the People's Republic of China has provided additional information concerning its nuclear nonproliferation policy.

In our future discussions, both the Chinese and the United States should continue efforts to ensure that there is a clear understanding of the Chinese nonproliferation policy provided by the Chinese. To allow ambiguity on China's nuclear policy to slip by unattended can only sow the seeds for damaging United States-China relations in the future. This is an outcome we and the Chinese must continue to work hard to avoid.

Mr. EVANS. Mr. President, many others have spoken on elements of this debate, so at this time I move to table the amendment of the Senator from Ohio, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The yeas and nays were not ordered.

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

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

Mr. EVANS. Mr. President, I ask for the yeas and nays on a motion to table the amendment.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. EAST], the Senator from Florida [Mrs. HAWKINS], the Senator from Nevada [Mr. LAXALT], the Senator from Indiana [Mr. LUGAR], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DECONCINI], the Senator from Hawaii [Mr. INOUYE], the Senator from Vermont [Mr. LEAHY], the Senator from Michigan [Mr. RIEGLE], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

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

The result was announced—yeas 28, nays 59, as follows:

[Rollcall Vote No. 356 Leg.]

YEAS—28

Andrews	Gramm	Murkowski
Chafee	Hatch	Pell
Cochran	Hatfield	Pressler
Cranston	Heinz	Simpson
Dodd	Johnston	Stafford
Dole	Kassebaum	Stevens
Domenici	Kasten	Symms
Evans	Mathias	Zorinsky
Garn	McClure	
Gorton	McConnell	

NAYS—59

Abdnor	Glenn	Mitchell
Armstrong	Goldwater	Moynihan
Baucus	Gore	Nickles
Bentsen	Grassley	Nunn
Biden	Harkin	Packwood
Bingaman	Hart	Proxmire
Boren	Hecht	Pryor
Boschwitz	Heflin	Quayle
Bradley	Helms	Rockefeller
Bumpers	Hollings	Roth
Burdick	Humphrey	Rudman
Byrd	Kennedy	Sarbanes
Cohen	Kerry	Sasser
D'Amato	Lautenberg	Thurmond
Danforth	Levin	Trible
Denton	Long	Wallop
Dixon	Matsunaga	Warner
Eagleton	Mattingly	Weicker
Exon	Melcher	Wilson
Ford	Metzenbaum	

NOT VOTING—13

Chiles	Inouye	Simon
DeConcini	Laxalt	Specter
Durenberger	Leahy	Stennis
East	Lugar	
Hawkins	Riegle	

So the motion to lay on the table amendment (No. 1347) was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATHIAS. Mr. President, the pending amendment raises serious questions that need to be discussed in some detail and at some length, because it affects, in a very large measure, the future of our relationship with the People's Republic of China. It has serious implications for the management of nuclear development in the world. It will affect, in a material way, the trade of the United States with the People's Republic of China. So there are many reasons why this amendment needs to be discussed.

Mr. President, I ask unanimous consent that I can yield to the majority leader without losing the floor.

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

Mr. DOLE. Mr. President, if we could have order, first of all, I share the views just expressed by the distinguished Senator from Maryland in reference to this amendment. Second, I noted the chairman of the Appropriations Committee was on the floor. I was trying to get some indication of what his plans were for the remainder of the day because I have had many requests on both sides of the aisle from Members who had other plans later this afternoon and this evening.

It was my hope that we were getting fairly close to completing action on this bill Friday, but now I see the amendments piling up and piling up. None of them are really relevant or germane to the continuing resolution. But if I could be permitted by unanimous consent to ask the distinguished Chairman of the committee what his plans are on this particular legislation, it would be helpful.

Mr. HATFIELD. Mr. President, I am happy to respond to the majority leader's inquiry.

Mr. President, the best we can ascertain now, the dam has been pierced. To draw a rough analogy, the dam has been pierced, and we are about ready to be inundated by every possible amendent dealing with authorizations under the jurisdiction of many committees of the Senate.

There seems to be a growing feeling that this is the last chance to get policy legislation, appropriation, sense of the Senate, et cetera. I want to emphasize again we are wasting our time. We are absolutely wasting our time on all of these. I do not care what the amendment is. It is not going to go anywhere.

Our current continuing resolution expires Thursday midnight. We are going to be on this continuing resolution now before the Senate probably through the day, through tomorrow, possibly into Wednesday if all the amendments that we are aware of are offered and rollcalls are requested.

Obviously we cannot go to conference, have a product back from the House, and a conference report on this continuing resolution that is before the Senate today, by Thursday midnight. It is just not possible. So consequently what we are probably going to face is that we will have a fourth continuing resolution sent over from the House as a short, brief, stripped-down continuing resolution that will bridge us over until sometime in January or maybe the first of February.

So, again, I say to my colleagues with all the objectivity I can that if each one of you in effect offers an amendment that deals with legislation which is subject to a point of order here, and if not challenged here, would be subject to a point of order in the House of Representatives, you are wasting our time. I cannot put it more bluntly. You are wasting our time.

We could have this put together and put through by today sometime. Conceivably we could have gone to conference tomorrow, had one other option before us of working out an agreement with the White House to get them to sign this continuing resolution, have the continuing resolution conference report back and acted upon by both the House and the Senate by Thursday night, and it would be for the remaining fiscal year. But now we are faced with the situation where it is going to be a fourth continuing resolution.

Mr. GOLDWATER. Will the Senator yield?

On that point, I am glad the Senator from Oregon is here. We just met briefly outside. There are continuing resolution funds prescribed by the subcommittee dealing with military affairs. These funds total about $7.3 billion over and above what we have authorized. While it does not put the authorization back above what the President wanted, far from it because we knocked $20 billion out of the bill. But this is $7.3 billion that we have never heard a thing about.

We know some of the items, have heard most of the items, and we have had a meeting for 2 hours by my full Committee on Armed Services, which just concluded, trying to find out how and where we might yield in that list of things that is being requested by the subcommittee so that we could be able to come to the floor and say that we are in agreement.

But I have to say to my good friend from Oregon, and to the majority leader, that right now we are working on our last go. We have until 4 o'clock to do it. If we do not reach it by 4 o'clock, you are going to be in for one hell of a long fight on this floor.

Mr. HATFIELD. Mr. President, could I add one addendum? I forgot to mention not only does this constitute a potential extended debate, but I know of two amendments of which there has been an assurance there will be a filibuster on both of those amendments if either or both are offered on the continuing resolution.

So those are just some of the bits and pieces of the situation that I can offer at this time. These things can all blow out of the water at any moment in terms of people deciding not to offer them. But that is the situation.

Mr. DOLE. Mr. President, it is very encouraging. [Laughter.]

I think we just have to make a judgment. I cannot do it for the entire Senate. But if we want to complete our work this week, or early next week, then sooner or later we are going to have to decide to pass a continuing resolution or make it sort of a Christmas tree, and load up everything we can think of, every foreign policy, defense initiative or whatever. I know there are abortion amendments, and I think I counted six or eight foreign policy, and seven or eight defense amendments, some of which may be appropriate. But many are legislation.

I guess at the point we decide we want to go home we will start tabling all of the amendments. Apparently we have not reached that point.

It is only Monday. We only have the farm bill, the farm credit bill, debt ceiling, reconciliation, and this measure to complete. So maybe we can afford to waste a couple of days debating these matters that the chairman advises is just a waste of time.

I know they are very important. I do not want to be misunderstood. The amendment just considered is a very important amendment. But does it belong on the continuing resolution? Will the next amendment if there is another amendment belong on the continuing resolution? I just suggest that there is a glimmer of hope that we might adjourn this Friday or Saturday. That glimmer will become either brighter or less bright depending on the will of the Senate.

I hope that the distinguished chairman would push on today. Maybe there will be a recognition after a while that we ought to let you go to conference. I know we have a problem in the authorization and the appropriations area of defense. But there is a chance that could be resolved. At least I understand based on the chairman's statement it is a possibility.

Mr. GOLDWATER. If the Senator will yield, we are not basically arguing about money. As chairman of the Armed Services Committee, when anybody offers me a little more money, I am going to grab it. We are arguing more about jurisdiction, about whether we have reached the point in this body when the Appropriations Committee, with all due respect to my friend, has the authority to authorize—and I think that day has very near reached us. If that is the case, I see no need for standing committees.

I see no need to have an Armed Services Committee with 18 members that meets probably as regularly or more regularly than any other committee except Appropriations. That is the point that we are arguing about in our committee. It is not whether we are going to cut 100 tanks out or buy 50 less F-16's or so forth. It is whether or not we have reached the point that we no longer have authority under any committee to authorize, and the Appropriations Committee therefore has the power to write bills that we will decide on.

I think it is very important. I do not think it is something we can sort of laugh off. I do not think it is something the Parliamentarian can decide. I think that the Parliamentarian would probably rule in the favor of the Appropriations Committee. But, again, is that correct? Are we here to do our job as committee members, or are we here to do the job—with all due respect and a good job of the Senator—on the Appropriations Committee?

That is what we are arguing about here.

Mr. STEVENS. Will the Senator yield for a moment?

Mr. HATFIELD. Mr. President, will the leader yield for just a moment?

Mr. DOLE. Yes.

Mr. HATFIELD. I would only like to say if the Senator from Arizona wishes to raise that question, No. 1, the Appropriations Committee never sought to be the authorizing committee. I would hope he would consider his amendment to apply to all authorizing committees as relates to appropriations bills, not just the armed services but all legislative committees.

Second, I hope it would then be considered that it would preclude us from responding to those committees which have come to us and asked us on the Appropriations Committee on many occasions to wrap their authorizing legislation into an appropriations bill because they have not been able to move it from their committee.

I would remind the Senate that one year we adopted the entire foreign operations authorization bill from the Senate Foreign Relations Committee at their request on an appropriations measure.

Mr. STEVENS. Mr. President, will the Senator yield,

Mr. DOLE. I yield.

Mr. STEVENS. My good friend from Arizona has a difficult problem and I realize the scope of that problem with regard to the defense appropriations bill, which is in this continuing resolution.

But the difficulty is not just the jurisdiction of a legislative committee. The difficulty is the differing application of the budget rules to the legislation from the authorizing committee as compared to the application of those same rules to an appropriations bill.

In connection with the defense bill, for instance, the Budget Committee does not score outlays against the authorization committee. That same bill comes to our committee and they do score outlays against the appropriations subcommittee. There is over $3 billion authorized by my good friend from Arizona and his committee in the authorization bill that cannot be in the appropriations bill unless it is moved to accounts that have lesser outlay impact for 1985.

The simple fact is we could not comply with the authorization bill because of the budget rules. We have had to create accounts. We have had to move money into other segments of the same service, the same function, where the outlay rates are different. But the moneys are there. The functions are there. The Department of Defense can carry out the defense of this country under the appropriations bill.

Should the authorization committee now say that the Appropriations Committee cannot do this, the loser is the defense of our country. At least $3 billion falls automatically. In addition to that, the House has not allowed some of the moneys in the authorization bill. There is more than $7 billion that we are talking about in terms of technicalities, not in terms of whether the money is needed for defense.

I urge my friend to keep in mind the problems of the Budget Act as that act applies to the appropriations process which has not been applied yet to the legislative committees. I think if we are going to have some reform around here we ought to have a level playing field as far as the authorizing committees and the Appropriations Committee are concerned in terms of the budget process.

Mr. KENNEDY. Will the Senator from Maryland yield?

Mr. MATHIAS. I have yielded to the majority leader.

Mr. DOLE. I yield.

Mr. KENNEDY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, I want to rise in support of the statement that has been made by the Senator from Arizona on what I think is a

very basic and fundamental institutional question. That is the extent that we are going to permit appropriations in the various areas where there is not authorization. I would not want my silence in listening to my good friend from Alaska to give the impression to this body that all of the action that was taken by the Appropriations Committee was just moving about various accounts. There were some very substantial changes in priorities that were made by the Appropriations Committee, particularly on the issues of readiness, modernization, preparedness, flying time, ammunition, and other elements of modernization.

I do believe that we ought to have the opportunity, even with the time constraints if we must, to have a discussion as to what is going to be the understanding of this body on that particular issue.

I think the point that has been raised by the chairman of the Appropriations Committee, and that is the rule that you are not going to permit appropriations where there has not been authorization, makes good sense. That is something that we have to perhaps entertain in the final hours of this Congress.

Mr. President, we are in the final week or 10 days of this particular session. The actions which have been taken by the Appropriations Committee have exceeded by far any interpretation of minor adjustment to try and accommodate various accounts. I do think that the observation and the position that has been taken by the chairman of the Armed Services Committee is eminently sound so far as we are concerned as an institution. Otherwise, what is being done here will be replicated for just about all the other standing committees.

As the chairman of the Armed Services Committee has stated, those standing committees will be virtually irrelevant.

I hope that perhaps at sometime we will have an opportunity to discuss this further.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. DOLE. I yield.

Mr. HATFIELD. Will the Senator yield for a question?

Mr. KENNEDY. I do not have the floor.

Mr. HATFIELD. The majority leader provided that opportunity.

I will ask the Senator for his observation, to indicate that he will withhold his legislative proposal on Medicare and the cigarette tax from this legislation.

Mr. KENNEDY. If I may respond to the chairman, the reason for the Medicare amendment is because it goes into effect on January 1 unless we take action at this particular time. On any other amendment I will withhold. The only reason that I would offer that is because this is the only vehicle in order to defer a dramatic increase that will affect the senior citizens across this country. If it was not going into effect on January 1, I would not offer it. But this is, I think, the only way that we are going to be able to address that particular issue that is going to affect the well-being of 8 million Americans, senior citizens.

If the chairman of the committee will give us some satisfaction that we can at least consider this, the substance of that issue, that in some way not to have the automatic increase, I will be glad to work out something.

Mr. HATFIELD. The Senator from Massachusetts has indicated that the legislation on appropriations activities does tend to lead to dead ends. I will follow the thought of keeping the Appropriations Committee free from such matters.

I would also indicate further that I can remember when the chairman of the Judiciary Committee came to us and asked us to adopt the crime bill, the entire crime bill, on an appropriations bill. That was done by the action of the Senate.

I just hope that at some time we can get back to an appropriations activity only rather than having to accommodate these other committees that do not get their work done.

Mr. DOLE. Mr. President, I think it is fair to say while the chairman is still here that we are going to try to move ahead on this bill today and into the evening. Those of us who have to be gone this evening will be gone. That is going to be up to the chairman of the committee.

I hope that there might be some way to temporarily set aside the pending amendment to see if we could resolve some differences. Otherwise, we are going to be on this amendment, I assume, for the balance of the day or the balance of the week.

Mr. GLENN. Reserving the right to object, Mr. President——

Mr. DOLE. I did not make that request.

Mr. GLENN. I understand. We had a vote at the conclusion of the debate. I think it was 59 to 28. That is a conclusive expression of the will of the Senate. I would be happy to move that along by vitiating the order for yeas and nays which has been entered on this and going to a voice vote. But I would object to setting this aside for anything else.

Mr. MATHIAS. Mr. President, I think the position of the distinguished chairman of the Committee on Appropriations is very sound. This is a measure which is of great importance. It is important on its own merits, and it is important insofar as it has a bearing on the relationship between the United States and the People's Republic of China. I do not believe we have yet had nearly the extent of discussion that both aspects of this amendment deserve. So I think we can examine in some detail exactly what is involved in this amendment.

First, let me say, Mr. President, that I have great admiration for the Senator from Ohio and for the concern and interest and commitment that he has exhibited on all nuclear questions. He has made outstanding contributions to our consideration of nuclear issues. Several years ago, he proposed a series of amendments to the provisions of law with respect to the International Atomic Energy Agency, amendments which I was very happy to cosponsor. I thought they were very positive and helpful and had they been adopted in full, they would have contributed greatly toward tightening up the international atomic and nuclear procedures, keeping better track of the transactions in nuclear material, keeping better records, and making more effective inspections of nuclear facilities in various parts of the world, particularly in the Third World.

All of these suggestions made by the Senator from Ohio did then and do now deserve very serious and favorable consideration. But in the case of this amendment, Mr. President, I have to differ with him. I do that not on the basis of a mere passing acquaintance with this subject. I have had long and serious discussions about this nuclear agreement with the People's Republic of China with the responsible officials in the United States Department of State and with Chinese officials. I have concluded from these discussions that a great deal is at stake here.

In the first place, the Senator from Ohio is suggesting that we should, in essence, apply the standards of the International Atomic Energy Agency to all sales to the People's Republic of China. It is at this point that I think we have to bring common sense into play. We are not dealing with a Third World country which is a novice in the field of nuclear energy and nuclear science. We are not dealing with a Third World country that we suspect might have ambitions to become a nuclear weapons state. We are dealing with one of the recognized, proclaimed, published, admitted, notorious nuclear weapons nations.

China is a nuclear power. There are no bones about it, there is nothing clandestine about it. China has the nuclear bomb. We all know it. So what we are discussing here is not a system of inspections or safeguards which will prevent China from becoming a nuclear weapons state. They are already there. That is a fait accompli. Maybe we do not like it; maybe the Soviet Union does not like it. But it is that way. China is a nuclear weapons state; it is a nuclear power. Under those circumstances, we have to approach this transaction in a slightly different light

than if, in fact, China were not known to have the secret of the nuclear bomb.

Having said that, Mr. President, we have to look at what was done in negotiating this agreement. I can testify from personal observation that great care was exercised in the construction of this agreement with the People's Republic of China. It may not be the perfect agreement; it probably is not; but is is probably the best agreement that could be obtained under the circumstances. There were long delays in arriving at it; this was not a hasty agreement.

The United States interposed objections of a very serious nature, and refused to go forward with the negotiations at various points during the discussions on this subject between the United States and the People's Republic of China. The nature of those objections is still so sensitive that I do not think they are the proper subject of discussion in open dabate. But they were resolved. They were not swept under the table. The United States stood firm and those objections were resolved.

I think that this history of negotiation is worth reciting simply because it will reassure Senators that this was not a hastily constructed agreement. This was not something into which we rushed. It was not undertaken in an ill-advised or dangerous manner. It was done very deliberately, very carefully. At times, the reticence of the United States to go forward in the absence of some response from the People's Republic of China raised questions as to whether or not there would ever be a successful conclusion to the negotiations.

But the history of this negotiation shows that the People's Republic of China did, in fact, take a responsible attitude. It did respond to the concerns expressed by the United States. It did provide assurance that would be helpful in resolving those concerns. The net result of this whole negotiation was that the United States and the People's Republic of China did, in fact, reach an agreement.

I think it is unfortunate that this subject arises on this particular vehicle, because we are under obvious time pressure. Yet it would be my perception that there is no way in the world that the President of the United States, having authorized personally, while in China, the culmination of this agreement, could then turn around and sign a bill which includes in it language such as the Glenn amendment.

What we are doing if we pursue this amendment is simply to foredoom the bill before us to an early veto. I have no advice from the President on that subject. I do not pretend to read the President's mind. But it seems to me that would certainly be the consequence of adopting the Glenn language, language which is inconsistent with the solemn undertaking of both China and the United States with respect to nuclear sales in the future.

I think that the Senator from Ohio has already contributed in a positive way to the development of this agreement. He has emphasized the necessity for an understanding about the peaceful use of nuclear technology, about the application of United States export laws, about Chinese nonproliferation policies, and about the reservation of the right of consent on the part of the United States for reprocessing and enrichment procedures. The Senator from Ohio is to be thanked for that participation. But I think to go beyond that and to try to apply other restrictions which will cause the whole agreement to fall through will be not positive but will, in fact, be negative.

The reason I say that is because, of course, the United States is not the sole source of this equipment or this technology. Far from it. There are many nations in the world which are well advanced in the science of nuclear energy. Just for example, the Republic of France has an extraordinarily well-developed nuclear industry. They have a number of nuclear reactors scattered throughout France for the purpose of generating energy. They have breeder reactors. They have enrichment facilities. They have reprocessing facilities at LaHaye and other places. They have a vitrification plant in southern France for the process of storing nuclear wastes. So the French are not backward in this technology. I could mention other countries, but France comes to mind. And the French are also very actively in the market to sell nuclear technology and nuclear equipment.

I think we have to look at the consequences of adopting this amendment on the future course of Chinese nuclear science. We now have an agreement which provides the United States with a degree of influence. I think it would demean the People's Republic of China to say that we had control, but we have a degree of influence and we have certain very clear understandings which are set forth in the agreement in writing. Those understandings give us the ability to influence in a positive way the outlook of nuclear science in China in the coming years. This will be to the benefit of the Chinese people. It will be to the benefit of the American people. And that influence will be used in a way that will benefit the citizens of the entire world insofar as it leads to a restrained and disciplined development of nuclear science in China.

But if we adopt this amendment, the agreement then is jeopardized. And if in fact the agreement is stillborn, which I think is the likely result of adoption of this amendment, then very simply the Chinese will turn elsewhere. You cannot blame them. They have made a good-faith effort to purchase their nuclear supplies and needs from the United States; they have accepted limitations on their freedom of action as a result of the agreements that they have made with the United States. But if their tender to us is rejected by the Senate, or at least is so altered by the action of the Senate that it amounts to a rejection, then I think we can expect they will decide that they no longer wish to delay the implementation of their plans for nuclear development. They will decide that they have to go into the world market and they have to look for another seller, another vendor, and that will not be hard to find. I am sure that other nuclear nations will be very happy to accommodate them.

The Germans, the French, and many other countries are very anxious to sell nuclear equipment and nuclear technology. I would hope that they would make agreements as careful and as restrictive as the one that we have made with the People's Republic of China. But once we destroy the agreement that is in being, we will have no further power to influence that consequence. Once we have dismantled the agreement that is in place, we will be opting out of the picture. And whatever happens then will happen without our concurrence.

It may be that there will be some among us who will say, "Well, so be it. At least then if it goes badly the blame will not be on our shoulders. We can turn our backs on it with a good conscience because we had nothing to do with it."

Well, I do not take that view. It seems to me that by remaining on the scene, by remaining active participants, by using the benefit of our influence and our position as vendor, we can have a greater degree of restraining influence than by any other way. To go forward and adopt this amendment, knowing that it will in all likelihood destroy the agreement with the People's Republic of China, is in fact to ask for much greater trouble for the world on the subject of nuclear development in the People's Republic of China. We would do better to take the agreements that have been worked out with such care and such deliberation, and to move forward on the basis of the foundation that has already been carefully constructed.

These are complex subjects and I think they deserve full attention of the Senate. They have already had careful attention in the Committee on Foreign Relations. This subject has been discussed in the committee and the committee has required a package of certifications which I think, when they are fully understood, will allay

the concerns of Members of the Senate.

The Senator from Ohio has pointed to the vote on the tabling motion which is about 2 to 1 against tabling.

Under normal circumstances, I would agree with him that that was conclusive proof of the disposition by the Senate of this matter. But I inquire of Senators whether they are in fact familiar with the package of certifications which was enacted by the Committee on Foreign Relations after a vote of 14 to 3, and which provides additional assurance beyond that already negotiated by the Department of State with respect to this Chinese nuclear agreement.

Have Members of the Senate actually read those certifications? Are they in fact familiar with the certifications? I will not ask the Senator from Louisiana if he is familiar with them, nor the Senator from Mississippi whether he is familiar with them. But I think we could go around the Senate, and leaving those two distinguished Senators out, we could probably find a large proportion of those who voted "no" on the past rollcall who in fact did not know what is contained in the certifications required by the Committee on Foreign Relations. They may not even know that there were certifications required by the Committee on Foreign Relations. They may be totally ignorant of that.

If we have to stay here long enough so that Members have an opportunity to read all that, we have to stay here. That, of course, is one of the infirmities of trying to legislate on a matter of critical importance in the field of foreign relations, as well as a complex issue in nuclear technology transfer, while we are in fact dealing with appropriations, and while we are under a severe time constraint.

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

Mr. MATHIAS. I yield for a question.

Mr. JOHNSTON. Can the Senator tell me what it is contemplated that we would be transferring to the People's Republic of China under this agreement?

Mr. MATHIAS. We are contemplating here the establishment of a relationship of vendor-vendee.

Mr. JOHNSTON. Of what items?

Mr. MATHIAS. Any number of different items in the field of nuclear technology, primarily for the development of nuclear energy facilities within the People's Republic of China.

Mr. JOHNSTON. Primarily water reactors, so-called pressurized water reactors? Is that the transfer technology?

Mr. MATHIAS. I think it is dangerous to enumerate the specific items, because I do not want to omit any. But we are looking at a broad range of equipment and technology that would lead the People's Republic of China to the development of an efficient system of generation of nuclear technology.

Mr. JOHNSTON. It is equipment for the generation of electricity from fission reactors. Is that fair to say?

Mr. MATHIAS. That is correct.

Mr. JOHNSTON. Are we the only source of that technology in the world?

Mr. MATHIAS. Certainly not. That is my point: that if we adopt the Glenn amendment, we will jeopardize the agreement with the People's Republic of China. They will say: "We tried to buy it from you, and we were willing to accept the safeguards that you imposed on us. You held us up a year, and we do not like what you ask of us, but we agreed to take it and we will live by our agreement. But if you won't do it and if you keep adding more conditions, we are going to go to France or to Germany, where perhaps they will sell it to us without this additional restraint."

So we are not the sole source of this. The position taken by the Senator from Louisiana is exactly right, and Senators have to understand that. All we are doing by adopting this amendment is putting on notice the nuclear energy industries of France, Germany, and other places that they have a potential customer, and a big one. I suspect that after the rollcall vote on the tabling motion, there are already transatlantic phone calls going to Paris and Bonn at this very moment saying: "Get ready, boys, get your salesman's kit out and start heading for Peking, because there is big business to be had out there. The Americans have just blown it."

That is what we will be doing. That is the primary thing we will be doing by adopting this amendment. Aside from that, I think we will be setting up a more dangerous situation for the world, because without casting any aspersions on the good intentions of our friends around the world, I happen to think that the careful agreement that has been agreed to by the United States and the People's Republic of China is more restrained and more disciplined than anything which is likely to take its place between the People's Republic of China and any other nuclear vender.

The point made by the Senator from Louisiana is the point we have to remember: we are just creating business for other people. I am reluctant to do that. I am sure that the Senator from Ohio is as pained as I am by the state of the American trade balance. We are more deeply in debt in our international trade not only than ever before in our history, but also, ever before in the history of any nation.

We are giving up the chance, not only for the business that is immediately in prospect here, but also for a generation of business with the People's Republic of China in the future. I submit that we are not only kissing this transaction goodbye but also that it will have an effect on other commercial relationships with the People's Republic of China. They will conclude that even after they have approached us in good faith and worked out an agreement and accepted restrictions which they do not like, they have in fact found it impossible to do business with us. So if they cannot do business with us on this subject, why should they try on other subjects?

So I think the action of the Senate today can have far reaching effects on the long-term commercial relationships between the United States and the People's Republic of China, far beyond the single subject of nuclear technology and equipment.

I am concerned, Mr. President, that we should spend a sufficient amount of time on this subject. I do not think that any agreement that could be arrived at would be totally satisfactory to all parties. Agreements on serious subjects, by their very nature, are compromises.

I do not think we could say that this is a hastily-drawn agreement. It results from protracted negotiations, negotiations which were delayed by the United States until we were sufficiently reassured on serious issues.

It is an agreement which has been thoughtfully considered by people highly experienced in this field. I would hope that the distinguished Senator from Ohio, considering all of the circumstances here, would at the very least allow us to lay this amendment aside temporarily so that some accommodation might be discussed. Otherwise, it seems to me that we are in a hopeless situation. We are headed either for dismantling the United States agreement with the People's Republic of China or we are headed for an early veto of this bill, if I read the tea leaves accurately.

It seems to me that rather than just butt our heads against the wall for all the rest of the day and all tonight and all day tomorrow, we should lay this aside temporarily and see what can be done.

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

Mr. MATHIAS. I yield for a question.

Mr. GLENN. If I would agree to set this aside, which I am not doing at this time, but if we could work out a time agreement for a time certain vote on this amendment tomorrow or the next day or whenever, a guarantee of it being prior to the final vote on the continuing resolution, would the distinguished Senator from Maryland agree to some arrangement such as that if we could work it out?

Mr. MATHIAS. As the Senator from Ohio well knows, no one Member of

the Senate could enter into such an agreement. What I would certainly do is to pass along the Senator's suggestion to the leadership and have other Members advised through the usual channels so there could be an appropriate chance for Members to consider positions on that.

Mr. GLENN. Would the Senator also agree that usually if the principals in oppositon work out such an agreement the leadership is usually very amenable to going along with those and so are other Members of the Senate? If there could be some sort of arrangement made where I could have a guarantee of a vote on this I would be happy to make such an agreement. Otherwise, I do not believe I would.

I think some of the issues that have been brought up here we have debated this morning during the 3 hours we were on the floor, and I am sorry that the distinguished Senator from Maryland was not here during that, but some of the statements that have been made with regard to this amendment I find it hard to accept them as being realistic because this requires no new negotiations at all. It says a Presidential certification, and that is all that is required is a Presidential certification.

I would say that the same kind of agreement that I am talking about are those that Japan, Brazil, Argentina already have approached China with and got China's agreement.

I am only asking that it go the route of IAEA safeguards or their equivalent. That is so minimal to me.

I gave up all the other things that I submitted to the Foreign Relations Committee, as my good friend knows, and he mentioned the agreement is not perfect, that there were long delays and he is very much aware after the classified briefing as to why the administration held it up for almost a year, what the other reasons were, which I do not believe should be brought out here on the floor. They cannot be without violating security.

All I am saying is there is good reason to say that I want and I think the Senate has expressed its will to want a Presidential certification that the verification of peaceful uses in the agreement language will meet the standard of IAEA safeguards to make certain our materials, technology, and equipment are not misused. It is so minimal. We require that with every other single nation. The Canadians required it and we signed that kind of agreement. The Australians required it when we signed that kind of agreement.

The original language says:

> The parties will use diplomatic channels to establish mutually acceptable agreements for exchanges of information and visits subject to this agreement.

That referred to how we are going to take care of the verification.

All we are saying is, "When those meetings and negotiations take place, Mr. President, certify to us that they essentially agree with IAEA," which is the norm for the world nuclear trade, and that is satisfactory and everything goes ahead.

That is so minimal. There were all these things said about how we are going to jeopardize this thing, where it is going to be a more dangerous world if we pass this, where it is going to be inconsistent with future nuclear sales requirements, where we will no longer have a degree of influence. The Senator from Maryland used the word with regard to China that some of the past activities have been notorious. That is his word, not mine. All I am trying to——

Mr. MATHIAS. I said it was notorious that they were a nuclear weapons power. It is notorious in the sense that is known to all the world.

Mr. GLENN. Notable, in other words.

Mr. JOHNSTON. Mr. President, will the Senator yield for a question on this subject?

Mr. MATHIAS. If the question of the Senator from Ohio is finished.

Mr. GLENN. I finished my question.

Mr. JOHNSTON. I am wondering if the Senator from Maryland and indeed through him the Senator from Ohio would think of an appropriate way to resolve the present impasse might be temporarily to lay this matter aside for the purpose of bringing up other amendments which would then give to the Senator from Ohio the right to make this the pending business upon the seriatim consideration of any amendments. In other words, this amendment would automatically become the pending business after the disposal of each amendment which then in turn could be temporarily laid aside by unanimous consent. That way we could plow through the rest of these amendments and then at any point the Senator from Ohio could refuse to grant his consent to lay it aside further, in other words, just by calling for the regular order.

We are trying to get out of here by the weekend sometime and by making this suggestion, I do not seek to gain advantage for either side in the controversy but just rather than have a filibuster that wastes all the afternoon and then come to the same conclusion, I think we might plow ahead with other amendments.

Mr. MATHIAS. In response to the question of the Senator from Louisiana, I think his suggestion makes a good deal of sense. The Senator from Ohio thinks my concerns are overblown, that the situation is not as bad as I have pictured it. I hope he is right. I have such confidence in his judgment that I am prepared to admit he may be right. But I repeat that I have not had a chance to discuss this with the President of the United States. I do not know the administrations' view as to just how dangerous the Glenn amendment is. Maybe they agree with me. Maybe they agree with the Senator from Ohio. But it would be useful to have a chance to find out their views.

Furthermore, the distinguished Chairman of the Committee on Foreign Relations is not present. I think it is essential that we have the benefit of the advice of the chairman of the Committee on Foreign Relations. He will be here shortly. If we had some respite as to time, as suggested by the Senator from Louisiana, we could have those consultations I believe under the proposal that the Senator from Louisiana has made that the rights of the Senator from Ohio would be fully protected.

Mr. GLENN. Mr. President, if the Senator will yield, I find it a little disconcerting in that Friday afternoon I wanted to bring this up and they said no, we could not do it then. We received assurances time after time, which the RECORD will show, that when we take this up on Monday there would be votes all day on Monday and I was to be here at 11 o'clock. I flew back in late last night just to be here for that purpose today. The reason being given at that time was that the chairman of the Foreign Relations Committee was absent on Friday, that he would be here this morning. We would be all set to take this up and dispose of it today. Now I find that late in the day he is not going to be here for a while and I have other commitments later today, also, which we took into consideration in the agreement we made the other day, that I would be the first up at 11 o'clock. We have been on this now for some 4 hours.

I would prefer, with the overwhelming vote we had, to go ahead and vote on this thing and I would be happy to vitiate the yeas and nays. If that is going to be impossible and I realize that phones are probably ringing in every office all over town from the administration and time is needed by them, and I am not about to have people consider or reconsider their vote.

I did find it a little disconcerting that the Senator from Maryland feels he indicated Senators did not know what they were voting on. I think Senators very much knew what they were voting on. I think Senators do know on all votes what they are voting on here. So I do not question the validity of that vote. I would want to have a very firm agreement.

I would want to have a very firm agreement of a time certain or a period before final approval of the continuing resolution that we can get

a vote on this, either a voice vote or a record rollcall vote, either one.

Mr. MATHIAS. Mr. President, I believe we have to have the advice of the leadership before we enter into any kind of agreements of that sort. I would be happy to send a message to the majority leader and the Senator from Ohio can send a message to the minority leader to see what their views are on this subject.

Mr. GLENN. I would be happy to consult with both the majority and minority leaders. But I would not agree to set aside this amendment until we have that agreement in hand and agreed to.

Mr. MATHIAS. Then we should ask the Senate staff to advise the leadership, and we will continue to discuss this important subject until we get some further word from others who are so vitally affected.

Mr. GLENN. Mr. President, I think we might make some progress here if we had a chance to discuss this. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Maryland has the floor.

Mr. MATHIAS. I yielded for a question. I have no objection to a quorum call, if I have unanimous consent that I regain the floor at the end of the quorum call.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MATHIAS. Mr. President, under the previous unanimous consent order, the floor reverted to me. Therefore, I ask unanimous consent at this time that I may yield to the Senator from Alabama for the purpose of making a unanimous-consent request, and that I retain the floor.

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

Mr. HEFLIN. I thank the distinguished Senator from Maryland.

BO JACKSON: WINNER OF THE HEISMAN TROPHY

Mr. HEFLIN. Mr. President, this past Saturday evening, the Downtown Athletic Club of New York City awarded the 1985 Heisman Trophy, a symbolic recognition of being the most outstanding college football player of the year, to Bo Jackson of Auburn University.

Bo, a senior from Bessemer, AL, is certainly deserving of this outstanding recognition. During his 4 years at Auburn, Bo Jackson has helped lead the football team to an overall record of 37 wins against only 11 losses, while also writing his name on almost every page of the University's athletic record book.

At a school that has produced such outstanding running backs as William Andrews of the Atlanta Falcons, Joe Cribbs of the Buffalo Bills, Lionel James of the San Diego Chargers, and James Brooks of the Cincinnati Bengals, Bo Jackson has been blessed with such speed and power, not to mention an outstanding group of teammates, that he has eclipsed almost every one of their statistical records.

He ranks first in yards gained rushing during a career, with 4,303. This grows in magnitude when you consider that he has not only gained another 282 yards in bowl games, with a Cotton Bowl date against Texas A&M yet to come, but he has missed seven games due to injuries during his career.

This season, Bo set a single season rushing record of 1,786 yards—more than 1 mile. In addition, his freshman year, when he gained 829 yards, ranks 15th among the most prolific seasons for Auburn rushers, and his sophomore total of 1,213 yards ranks third. Only his junior statistics are not a part of Auburn's 1-year record book, and then only because he missed more than six games with a severe shoulder injury.

He also holds school records for career touchdowns with 44, career points with 274, points in a season with 102, and rushing touchdowns in a season with 17.

In an era where 100 yard games are a statistical measure of greatness for running backs, Bo Jackson has set his own standard. While other backs are striving for the 100 yard barrier, Bo has five times achieved 200 yards, with a high game of 290 yards. Indeed, his per game average is more than 113 yards, built largely upon an Auburn career record of 20 100 yard games. While most backs would be pleased with three 100 yard games in a season, or even in a career, this year Bo accumulated three 100 yard quarters.

The list of honors which have been accorded Bo Jackson during his collegiate career is befitting of a player who has built such a record of excellence. In 1982, he was named to the Freshman All-American team. In 1983, and again this year, he has been a consensus All-American. In the 1984 Sugar Bowl against Michigan, he was named the most valuable player. Last year, in the Liberty Bowl against Arkansas, he was again named the most valuable player.

Still, Bo Jackson has been more than a football star at Auburn. He has been the school's first athlete to earn varsity letters in three sports in more than 30 years, and the Southeastern Conference's first in 20 years. As a 2-year participant in track, he has qualified for the national semifinals in the 60-yard dash both years.

In addition, Bo is recognized as one of the premier players in college baseball. Last season, prior to being drafted by the California Angels, he batted .401 with 17 home runs. In that draft, he was given the highest rating of any player eligible for the draft, considering hitting for average, hitting for power, running, fielding, and arm strength.

Bo's all-around athletic ability clearly manifested itself at Bessemer's McAdory High School. Besides being named to the All-State football team, he was twice the Alabama high school decathlon champion, and set State records in six separate track events. For his baseball achievements, he was drafted by the New York Yankees in the second round of the 1982 draft.

Mr. President, I could go on and on listing Bo Jackson's athletic achievements and records. Perhaps more telling, however, is a quotation from Ray Perkins, head coach at the University of Alabama, who said, "Bo Jackson is the best running back in the world, college or pro."

Mr. President, I congratulate Bo Jackson on this outstanding recognition, and wish him the best in the Cotton Bowl and beyond.

Thank you, Mr. President.

ALABAMA'S SUPERCOMPUTER PROJECT

Mr. HEFLIN. Mr. President, according to a recent published report by the National Science Foundation:

> U.S. Leadership in supercomputing is crucial for the advancement of science and technology and, therefore, for economic and national security.

Recently, the State of Alabama took a giant step towad providing this leadership by announcing plans to acquire and operate a multimillion-dollar supercomputer.

The project is a $22 million investment in the future and is designed to improve the research effort at the State's universities and to enhance the economic development of the State.

The brand of supercomputer the State will acquire has not been determined, but we do know it wil be the most advanced version available—1 of only 150 of its type in the world. Among the features of this type of computer are: The ability to perform 1.2 billion calculations per second; 50,000 times more power than a personal computer; and a 256 million word common memory. Two hours of computing on a supercomputer is the equivalent of 1 month of computing on most main frame computers used in research at colleges and universities. It would take a week and a half of number crunching on a personal computer to do the calculations of a supe-

computer can do in 2 minutes. Simply put, this machine will be the fastest computer available.

Current plans are for the supercomputer to be located in Huntsville, AL, the site of one of our Nation's leading high technology research parks. It will be operated by a special State authority—the Alabama Supercomputer Network Board. The State will operate at least six centers that will have direct access to the supercomputer in Huntsville. This system will be designed to link Alabama's five major research universities: the University of Alabama, the University of Alabama in Birmingham, the University of Alabama in Huntsville, Auburn University, and the University of South Alabama. The State's plans calls for industrial clients to have access to the machine through terminals located at one of these major universities. Thus, regardless of geographic location, researchers will have instant access to the supercomputer.

University researchers have proposed to deal with a variety of projects that can only be handled using state-of-the-art processors. These projects include, for example:

First, petroleum reservoir mapping, which is of great interest to firms in the process of determining the size and shape of oil and gas reserves—an area vital to the national economy and continued energy resources.

Second, computer aided design and manufacturing—an area in which the Nation needs to improve the quality and quantity of production, such as automobiles, farm equipment, weapons, and so forth.

Third, weather forecasting, which is of great interest to all people, particularly to the agricultural community. More research is needed for an improved system of forecasting devastating storms and their paths to help minmize loss of life and property.

Fourth, weapons system design and simulation—an area of vital interest to the national defense.

Fifth, crystallography research, dealing with chemical substances containing medical properties to help improve health care delivery.

University researchers will also be using the supercomputer in other areas of national significance. The University of Alabama in Huntsville [UAH] and Auburn University have been selected to lead research consortiums involved with the Strategic Defense Initiative Organization, and UAH has also, along with the University of Alabama in Birmingham [UAB], been selected to lead institutions in NASA's effort to conduct studies into the commercial development of space.

Auburn University will lead five institutions which will share $19 million over 4 years to develop power sources for space. To keep a defense system or a manufacturing facility in space for long periods of time, power must be generated, stored, and switched on and off in space. Scientists involved with this effort will be using the supercomputer to develop the most efficient and effective power systems.

UAH was chosen to lead nine universities sharing $9 million over 3 years to study high-speed computer techniques using beams of light to carry signals. The goal of the program is to conduct investigations leading to major advances in signal and image processing technology, which will lead to the development of an optical computer. In the space defense concept, an optical computer could be used to pick out incoming missiles and could target a weapon to destroy the missiles. Scientists involved in this effort will be using the supercomputer to simulate actual nuclear attacks and then determine the best defense.

UAH and UAB have both been designated as "centers for the commercial development of space." These centers are selected by NASA to stimulate high-technology development in space, including materials processing, biotechnology, remote sensing, and communications. UAH will be using the supercomputer for research in physical chemistry and materials transport through fluids, and the interactions of the two fields. UAB will work in protein crystallization, a highly promising field for understanding details of how the human body and diseases function, and how to tailor drugs to address specific problems.

These are just a sampling of research applications for the supercomputer. Scientists thoughout the State are in the process of developing many, many other projects of importance to the advancement of science and technology.

Obviously, the supercomputer will be a special boon to university researchers, and it will also strengthen the educational opportunities available to students at both the undergraduate and graduate levels. The common theme that runs through the comments of computer experts in academia is that lack of access to supercomputers is hurting American university research. According to Bill Busbee of the Los Alamos National Labs:

> Our ability to remain competitive in scientific research will require academics to have access to supercomputers.

Thus, the benefits of the State's decision to acquire a supercomputer will be considerable for Alabama's higher education community.

In addition, the supercomputer will aid Alabama's economic development in the following ways: First, the supercomputer will be an incentive for high technology industries to locate in Alabama; second, the supercomputer will help existing firms obtain high-technology contracts; third, a signficant portion of funds currently being expended outside the State on supercomputer access could be expended within the State; fourth, Alabama will benefit from a stronger competitive position in obtaining future and expanded Federal starts in space and military research projects.

A special aspect of the Alabama supercomputer is that it will be one of the few in the Nation shared by Federal and State agencies, universities and the private sector; and that's what makes this supercomputer project so exceptional. This project is the culmination of a tremendous 2-year cooperative effort between the Government, business, and higher education communities of Alabama. Numerous groups from all three segments invested much time and effort in planning and developing this project, and the amount of collaborative spirit that surfaced was truly remarkable. The leaders of these groups are to be commended. With this project they have positioned Alabama at the forefront of what is truly a major technological thrust in this country.

Gov. George C. Wallace is to be especially commended for his initiative and foresight in bringing these groups together and spearheading the State's efforts in acquiring this machine.

Other States throughout the Nation should recognize what this supercomputer means to Alabama and take note as to what can be accomplished if self-interests are put aside and an air of cooperation exists. This is what has occurred in Alabama, and as a result our State is now poised on the cutting edge of high technology and prepared to lead our Nation into the 21st century.

Thank you, Mr. President.

Mr. President, I yield back to the distinguished Senator from Maryland.

Mr. MATHIAS. Mr. President, I ask unanimous consent to speak out of order.

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

JUSTICE POTTER STEWART

Mr. MATHIAS. Mr. President, Mrs. Mathias and I were saddened to learn of the death of Justice Potter Stewart. He was a distinguished lawyer. He was a great Justice of the Supreme Court. But he was also a personal friend.

We had the great privilege of knowing him for the years that we have been in Washington. We have had the benefit of his company, his knowledge, his opinions on public affairs, and the sense of humor with which he leavened the serious problems of life.

It was a matter of regret that Justice Stewart decided to retire from the Supreme Court because he took with him into retirement one of the important voices advocating commonsense and moderation. His opinions evidenced

careful, balanced objectivity. These qualities would be valuable on any court at any time, but they were particularly useful to the Supreme Court of the United States during the time that he served there.

It was typical of Justice Stewart that when he left the court he did not leave public life. He was employed in a number of interesting and useful projects which advanced the rule of law and the administration of justice. His many contributions were given enhanced value by his years of experience and service on the Supreme Court. His contributions had a unique flavor because of his personal commitment and because of his judicial experience.

Mr. President, Mrs. Mathias and I wish to extend our sympathy to Mrs. Stewart and to the members of the family.

I ask unanimous consent that the editorials on Potter Stewart which appeared today in the New York Times and the Washington Post be printed in the RECORD at this point.

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

JUSTICE STEWART'S LEGACY

It would have been presumptuous or devious in almost any other public official, but Potter Stewart once asked President Nixon not to name him Chief Justice. He later explained that he had promised himself on reaching the Court in 1958 never to lust for higher office.

Justice Stewart, who died Saturday at age 70, was probably wrong about his capacity to lead his colleagues. But the episode dramatized his devotion to the institution and a lack of pretension that well served him and the Court. A foe of inflated rhetoric, he once leaned down to ask a lawyer denouncing a Government action, "Are you trying to shock us?"

Mr. Stewart always feared that his epitaph would be his 1964 concurring opinion saying he had trouble defining hard-core pornography but "I know it when I see it." All he meant was that judges, much as they may reach for exalted legal principle, are human and should occasionally admit resorting to common sense.

He spoke candidly and pungently about the law, but always reverently. A dissenter from many Warren Court rulings, he worried nevertheless that later justices would lightly overrule precedent just because they had the votes.

Justice Stewart was a pragmatist who, confronted with attempts to censor free expression, became a near-absolutist in First Amendment speech and press cases. His remarkable 1974 lecture at Yale Law School articulated well the state of the law and his challenge to the press:

"So far as the Constitution goes, the autonomous press may publish what it knows, and may seek to learn what it can. But this autonomy works both ways. The press is free to do battle against secrecy and deception in government. But the press cannot expect from the Constitution any guarantee that it will succeed. . . . The Constitution, in other words, establishes the contest, not its resolution."

Potter Stewart, a judge of few, well-chosen words, grew handsomely in office and left a legacy of good sense.

POTTER STEWART

Potter Stewart, who died Saturday in New Hampshire at the age 70, was the youngest federal court judge in the country when he was appointed to the Sixth Circuit Court of Appeals by President Eisenhower in 1954. Twenty-seven years later, he surprised friends and colleagues by retiring from the Supreme Court at the relatively young age of 66. Five justices older than he remained on the court, but he said he wanted to leave while he was still in good health and could enjoy his grandchildren. His judicial service thus paralleled the most productive years of most lawyers rather than the later careers of many judges, and his years on the bench serve as an example to both.

Justice Stewart said that he wished to be remembered as "a good lawyer who did his best." That respect for careful analysis, thorough preparation and the ability to bring objectivity and logic to a task was always apparent in his work. As a judge, his goal was to be "objective, conscientious, diligent and [to] remember always that every person is equal before the law." These guidelines, reflected in his opinions, earned him a reputation for moderation based not on insecurity or shifting philosophy but a firm devotion to the Constitution and his own view of judicial power and responsibility. Often characterized as a conservative during the Warren years and a centrist on the Burger court, he held views that were steady and consistent. It was the court that changed.

Justice Stewart believed in the importance of precedent and the desirability of deciding cases on the narrowest of grounds. Like the good lawyer he was, he made distinctions between cases and was not impelled by a political philosophy that put him always on the left or the right side. He voted to allow states to organize prayer in public schools but against public money for parochial schools. He sided with the majority in striking down laws against abortion, but wrote the opinion upholding Congress' right to ban Medicaid payments for the procedure. An early defender of civil rights remedies, he later objected to affirmative action plans that involved racial preferences. These opinions did not demonstrate inconsistency but rather a careful consideration of what the Constitution required in specific cases.

A strong defender of the right of privacy and of a free press, he once said, "So far as the Constitution goes, the autonomous press may publish what it knows and may seek to learn what it can." He knew that the states, the three branches of the federal government and the press have separate rights and responsibilities, and he sought to protect each.

Judges, government officials and constitutional scholars are today engaged in a debate on how the court should view the Constitution. Some believe the intent of the Framers should be controlling while others call for a judiciary that places more emphasis on its own view of today's problems. Justice Stewart would not be on either side in the debate. For decades on the bench he demonstrated restraint, respect for the Constitution and a pragmatic intelligence that enabled him to contribute much. His death is a loss not only to his family and colleagues but to his profession and his country as well.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 1986

The Senate continued with the consideration of the joint resolution.

Mr. MATHIAS. Mr. President, I ask unanimous consent that following the suspension of the quorum call, which I am about to suggest, I will regain my right to the floor.

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

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

Mr. GLENN. Reserving the right to object, I do not object.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, it is time that we move along in the consideration of the continuing resolution.

Mr. MATHIAS. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Maryland has the floor.

Mr. MATHIAS. Mr. President, I yield for a question.

Mr. KENNEDY. Mr. President, time is moving on. It is now 3:30 in the afternoon. I was on the floor about 2 hours ago and heard the admonition of the majority leader about moving expeditiously and not having irrelevant matters considered on the continuing resolution.

I know we are in the process of trying to get the principals together on an extremely important amendment.

Mr. President, is there any opportunity that those of us who do have amendments and who are prepared to agree to a time limit can be afforded the opportunity to move ahead without jeopardizing the positions of the managers of the bill and of those who currently have an amendment pending?

Mr. MATHIAS. Mr. President, I can respond to the Senator from Massachusetts that I personally would have no objection what so ever to laying aside temporarily the pending business.

But this matter is under consideration by the leadership. The Senator from Ohio just made several suggestions in this respect. I hope we will have an answer for the Senator from Massachusetts in the very near future.

Mr. KENNEDY. I thank the Senator from Maryland. I think all of us are mindful of the press that comes at times with regard to these matters. At the outset, I want to reject the thought that we are going to be stampeded into a situation where we will not have an opportunity either to

offer this amendment or take a short but important period of time. As I have said, I have been on the floor for a period of 5 hours. A good part of that was involved in a very important debate on the amendment of the Senator from Ohio, but I do have an amendment dealing with the increase in the deductible charge for Medicare recipients who utilize hospitalization.

Unless this amendment is accepted, there are going to be more than 8 million senior citizens in our country who are involved in the Medicare system who are going to see a very sizable jump in their deductible—close to $100—that they will have to pay for their Medicare deductible.

It does seem to me that, given the fact that the Senate has accepted a sense-of-the-Senate resolution to permit the Finance Committee to consider this particular very, very dramatic and significant increase in the deductible and that the Finance Committee chairman has indicated a willingness to address this issue, I do hope that those who know the importance of getting to an early conference—I certainly understand that, but I also know that unless we are going to have the opportunity to address this issue on this particular measure, effectively, there is no item coming down the track on which the Senate will have a chance to express its will. We are facing conference reports now and I think all of us present are mindful of the complexity which faces us in consideration of a conference report. So I wanted to indicate to the Senator from Maryland—I know he has not been denying us an opportunity to address this issue, but I also want to indicate that I do hope that we shall have an opportunity to address this issue in the very near future because it is of enormous importance to the seniors of this country.

Mr. MATHIAS. Mr. President, once again in response to the Senator from Massachusetts, I do not personally have any objection to seeing the matter presently under discussion laid aside, but that matter is being considered by other Members of the Senate and I think we shall have a decision soon.

Mr. President, I ask unanimous consent that, at the end of the quorum call which I am about to suggest, I retain the right to the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there objection? Without objection it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MATHIAS. Mr. President, I see the distinguished chairman of the Committee on Foreign Relations on the floor. At this point I yield to the Senator from Indiana.

Mr. LUGAR. Mr. President, I thank the distinguished Senator from Maryland. I appreciate the distinguished Senator from Maryland and the Senator from Washington and others carrying on this vigorous debate in my absence.

Let me say, Mr. President, that I regret the vote occurred as it did and that this kind of issue has reached this particular point. In my own judgment, the amendment of the distinguished Senator from Ohio may very well kill the agreement with the Chinese. Members will have differing opinions upon whether that will be so or whether that would be a good thing on both counts. There are Members who in some cases would prefer no agreement and others who feel the Chinese have, as the distinguished Senator from Ohio has argued, made similar provisions with the IAEA as they might make with us.

But in any event, it seems to those of us who have counseled upon my return that it is well for the Senate to proceed with the continuing resolution. It is important business. This issue has been thoroughly debated, and so I would ask the distinguished Senator from Ohio if he would be willing to vitiate the yeas and nays in order that the issue might be voted on by voice vote with the understanding that it will carry.

Mr. GLENN. I would, Mr. President. I thank the distinguished Senator from Indiana for his consideration in this regard. It was a very decisive vote on this issue and left no doubt about the will of the Senate. I would move to vitiate the yeas and nays previously ordered on this amendment with a voice vote to follow.

The PRESIDING OFFICER. Is there objection? If not——

Mr. GLENN. Mr. President, I move the amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Ohio?

Mr. MOYNIHAN. Mr. President, I would like to keep the Senate 2 minutes on this matter just to tell the distinguished chairman of the Committee on Foreign Relations that, in his brief and necessary absence this morning, we debated at some length the rather striking record of the People's Republic of China with respect to the United States and issues that arise in multilateral forums such as the International Atomic Energy Agency but most specifically the United Nations.

The nonaligned movement has scarcely distinguished itself in its support of the United States. In the 39th General Assembly, the Soviet Union voted against us by our measurement from information given to us by the State Department 86 percent of the time. The People's Republic bettered that record by voting against us 88 percent of the time.

Moreover, the State Department chose 20 votes which it calls name-calling votes in which quite, gratuitously, the United States is referred to in language that ranges from the unflattering to the slanderous. The origins of those references, which are never to the substance of the issue in particular but just gratuitous, are characteristically known to be in the Soviet Union. Not a single time in the 39th General Assembly, not once did the People's Republic of China vote with the United States. Invariably—17 times and 3 absences—they voted against us on simple motions to delete slanderous references to the United States.

A delegation led by the majority leader on August 27 this year met with Mr. Deng Xiao-ping in the Hall of the People. The Senator from Maine was present. It fell to me to raise this question with the officials and the head of the People's Republic. I said to Mr. Deng Xiao-ping that whilst we could agree with his characterization of our bilateral relationships as cordial and cooperative—and this agreement was tangible evidence of the cooperation—when we looked at them in other forums we could not recognize this relationship.

I said that it seemed to us they had a two-America policy.

Could I simply say to the chairman that this particular question of multilateral relations was never raised with us by the Department of State. We found this out when we asked for the information which we got. But we had to ask.

And it seems to me to raise questions about what do we think our relations with this country are, or what does it think they are—which gave rise to questions on both sides which I would hope the Senator from Indiana might raise with the Department with respect to this and indeed future agreements of its kind, with the People's Republic of China, particularly, and with other nations generally.

Could I take the Senator's calm visage as one of interest at least in the proposition?

Mr. LUGAR. Let me respond to the question from the distinguished Senator from New York——

The PRESIDING OFFICER. Is there objection to the request of the Senator from Ohio? Without objection, it is so ordered.

Mr. GLENN. Reserving the right to object, what was the request?

The PRESIDING OFFICER. The question was whether to vitiate the yeas and nays.

Mr. LUGAR. Mr. President, I wish to respond for a moment to the distin-

guished Senator from New York. Indeed, his argument is an important one. But I do not wish to trouble the relations among Senators any more than I do with the People's Republic of China by additional comment. Indeed, this agreement is one in which I think all Senators entered into the initial consideration knowing that there are risks and also opportunities. I shall not try to detail the risks any more than the opportunities. On balance, this Senator felt this particular agreement was a worthwhile undertaking, and I still feel that is the case. It may be that history will serve the Senator well, that we should have put on this additional stipulation the Senator from Ohio has called for and that many Senators apparently support. In my judgment, this is a risky move but, on the other hand, one obviously that the Senate apparently supports. This is why I suggest we proceed to the voice vote and move on with the resolution.

Mr. MOYNIHAN. May I ask, did the Senator hear me with respect to the fact that international forums ought to be an aspect of our judgment of a relationship?

Mr. LUGAR. Indeed, it should. The Senator's point is well taken and one which I think has to be heavily weighed in this consideration.

Mr. MOYNIHAN. I thank the chairman.

Mr. GLENN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 1347) was agreed to.

AMENDMENT NO. 1350

(Purpose: To delay for 4½ months the increase in the Medicare inpatient hospital deductible, and to increase the cigarette tax by 1 cent for 3 years)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mr. BURDICK, proposes an amendment numbered 1350.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the resolution add the following new section:

MEDICARE HOSPITAL DEDUCTIBLE INCREASE DELAY; TEMPORARY INCREASE IN CIGARETTE TAX

SEC. . (a) HOSPITAL DEDUCTIBLE INCREASE DELAY.—Notwithstanding section 1813 of the Social Security Act, the increase in the inpatient hospital deductible which would otherwise become effective on January 1, 1986, pursuant to such section shall not become effective until May 15, 1986. The inpatient hospital deductible in effect for 1985 shall remain in effect until May 14, 1986.

(b) CIGARETTE TAX INCREASE.—

(1) RATE OF TAX.—Section 5701(b) of the Internal Revenue Code of 1954 (relating to rate of tax on cigarettes) is amended—

(A) by striking out "$8 per thousand" in paragraph (1) and inserting in lieu thereof "$8.50 per thousand, or $8 per thousand after September 30, 1988"; and

(B) by striking out "$16.88 per thousand" in paragraph (2) and inserting in lieu thereof "$17.53 per thousand, or $16.80 per thousand after September 30, 1988".

(2) FLOOR STOCKS.—

(A) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before December 14, 1985, and held on such date for sale by any person, there shall be imposed the following taxes:

(i) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, 50 cents per thousand;

(ii) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, 73 cents per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(B) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding cigarettes on December 14, 1985, to which any tax imposed by subparagraph (A) applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by subparagraph (A) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1954 and shall be due and payable on January 2, 1986, in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on December 14, 1985.

(C) CIGARETTE.—For purposes of this paragraph, the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1954.

(D) EXCEPTION FOR RETAILERS.—The taxes imposed by subparagraph (A) shall not apply to cigarettes in retail stocks held on December 14, 1985, at the place where intended to be sold at retail.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply with respect to cigarettes removed after December 13, 1985.

(B) CONFORMING AMENDMENT.—Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "and before November 15, 1985".

(c) TRANSFER TO MEDICARE TRUST FUND.—Section 1817(a) of the Social Security Act is amended—

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

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

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

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

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

(6) by inserting after paragraph (2) the following new paragraph:

"(3) 5.88 percent of the taxes imposed under section 5701(b) of the Internal Revenue Code of 1954 on cigarettes removed after December 13, 1985, and before October 1, 1988, and 100 percent of the taxes imposed under such section on floor stocks held on December 14, 1985.".

Mr. KENNEDY. Mr. President, I ask unanimous consent that the amendment be temporarily laid aside so that the Senator from Washington may offer an amendment.

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

Mr. GORTON. I thank the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 1351

(Purpose: to provide for the effectuation of a negotiated settlement between the Department of the Navy and the State of Washington and for other purposes)

Mr. GORTON. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 1351.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill add the following section:

"SEC. The Department of the Navy is authorized, within existing appropriations, to expend such sums as are necessary to effectuate a settlement with the State of Washington of back tax liabilities arising out of Federal construction projects in Washington State. Such settlement may be negotiated directly between the Department of the Navy and the State of Washington, notwithstanding the fact that the liability of the Department of the Navy may be derivative from persons contracting with the Department.".

Mr. GORTON. Mr. President, the amendment I offer permits the Navy to discharge a liability to Washington State, a liability which the Navy acknowledges, which the Supreme Court has upheld, and which is accruing interest at the rate of almost $4,000 per day. It is surprising that I must offer an amendment to accomplish this, and so I would like to state for the record what the circumstances are that put me in this position.

Washington State assesses a sales and use tax on materials used on constuction projects. The Federal Government had challenged Washington State's authority to impose such a tax, appealing to the supremacy clause of the Constitution. But on March 29, 1983, the Supreme Court of the United States upheld the tax as constitional.

The Washington State Department of Revenue subsequently negotiated

with various Federal agencies to establish the precise amounts of the back tax liabilities. Although the liability fell, in the first instance, on the firms themselves, and only through them on the U.S. Government, all parties agreed that a settlement negotiated directly between the State and Federal Governments was infinitely preferable to the tortured process of issuing thousands of assessments on individual firms, and requiring each to contact the Navy directly. All of the Federal agencies negotiated in good faith, and resolution of the issue, though complicated, has generally been proceeding satisfactorily.

But surprisingly—indeed, almost shockingly—the House has refused to go along with this, and characterized the tax as "unfair."

Mr. President, fairness is not even the issue here. The Federal Government has a legal obligation to make this payment. The Supreme Court has affirmed this obligation. Certainly it will ulitmately be made. But in the meantime, the action of the House assures not only that Washington State's revenue planning will be thrown into unnecessary confusion, but also that the ultimate settlement will be even more costly to the Federal Government, because of the interest charges that continue to accrue.

Now, I have heard some say that the fact that the Supreme Court has upheld the tax liability is not a decisive point, because Congress makes the laws, and can change them if it wishes. But Mr. President, the case was decided before the Supreme Court on constitutional grounds. Does anyone seriously beleive that we are going to entertain a measure to repudiate this liability?

I can only assume that the House Members have somehow not had the opportunity to focus clearly on this subject, for if they had, certainly they would have realized that refusing to go along with this provision is counterproductive.

I want to thank Senators MATTINGLY and SASSER for understanding the situation and agreeing to accept the provision. Clearly, this effort will not succeed until we manage to make the case more persuasively to our House colleagues. And it is unfortunate that their reluctance to accept this provision creates so much turmoil among Washington State contractors. But I intend to pursue this issue until it is resolved.

Mr. President, the amendment relates to the military construction appropriation. It was included in the MilCon appropriation which was passed by the Senate, but was removed in conference. It simply authorizes the Navy to negotiate the settlement of a tax claim by the State of Washington, a tax claim which has been affirmed by the Supreme Court of the United States.

I am not certain that the House will agree to this amendment, even the second time around, but I should like to have the opportunity to do so. It has been cleared by both the distinguished Senator from Georgia [Mr. MATTINGLY], who is the chairman of that subcommittee, and by the distinguished Senator from Tennessee [Mr. SASSER], who is the ranking minority member of that subcommittee.

Mr. HELMS. Mr. President, inasmuch as the manager of the bill is not on the floor, I know that the Senator will permit me to suggest the absence of a quorum.

Mr. GORTON. Mr. President, the Senator from Massachusetts was kind enough to defer to me, and if we are not able to accept the amendment now, I simply ask unanimous consent that we go back to the amendment of the Senator from Massachusetts at this time. I make that request.

The PRESIDING OFFICER. Regular order is the amendment of the Senator from Massachusetts.

AMENDMENT NO. 1350

Mr. KENNEDY. Mr. President, the Department of Health and Human Services announced on September 30 that the Medicare hospital deductible will increase by $92 on January 1, 1986—the largest increase in the deductible in the history of Medicare. This whopping increase has been a source of distress and outrage to senior citizens all over the country.

The Medicare hospital deductible is the amount that each elderly and disabled Medicare beneficiary must pay out of his own pocket or his own insurance when he enters the hospital.

Eight million of our senior citizens must pay this deductible every year, and this scheduled $92 increase will bring the total deductible to a staggering $492, an increase of 173 percent just since 1980.

The exorbitant increase in the hospital deductible was not intended by anyone. It is an unintended consequence of the new Medicare prospective payment system and of Congress' failure to modify the method of calculating the deductible to reflect the new payment system.

Since the beginning of the Medicare Program, the deductible has been calculated on the basis of the cost of an average day of care.

Increases in the deductible were supposed to reflect increases in the cost to Medicare of a typical hospitalization, and as long as Medicare paid hospitals for services to Medicare beneficiaries on a daily cost basis, the annual increases in the deductible were reasonably fair.

But today Medicare no longer pays for hospital care on a daily cost basis. Beginning with legislation enacted in 1982, Medicare began to pay a fixed price—set in advance—for each Medicare admission. The fixed price varied depending on the diagnosis that was treated, but the key feature of this prosective payment system was that the price was set in advance and was based on admissions and diagnoses, not days of care.

The prospective payment system has reaped enormous savings for the Federal budget and has had a major impact in slowing the growth in health care costs. In the next 5 years alone. Prospective payment will reduce the deficit an estimated $37 billion, and that is without assuming any savings from this year's reconciliation bill.

But, while prospective payment has brought relief to the Federal budget, it has created heavy additional costs for senior citizens already burdened with high health care expenses. Prospective payment encourages hospitals to economize by reducing length of stay. Between 1982 and 1985, average hospitalization for Medicare beneficiaries dropped from 10.24 days to a projected 8.75 days. Between 1983 and 1984 alone, length of stay dropped almost a full day, from 9.84 to 9.05.

The result of this drop in length of stay—combined with the fact that hospital occupancy rates are now at historic lows—has been that hospitals' costs are concentrated in fewer days of care. The rate of increase in total cost and costs per admission has slowed dramatically, while the costs of care per day have soared.

There is nothing that better illustrates the unreasonableness of Congress' failure to reform the old method of calculating the hospital deductible than what will happen next year. That horrendous $92 dollar increase in the hospital deductible translates into a 23-percent rate of inflation. That is three times as high as the increase in Medicare's per admission payment in 1984, the base year on which the deductible is calculated.

And, it is 46 times as high as the increase in per admission payment to hospitals that is included in the reconciliation legislation passed by the Senate.

Mr. President, I say it is time for Medicare beneficiaries to share in the savings from prospective reimbursement rather than being saddled with additional costs. I announced legislation to correct this problem last spring. If that legislation had been enacted, sick Medicare beneficiaries would not face a $92 dollar tax increase every time they enter the hospital next year.

When we considered the reconciliation bill in this body, I offered a sense of the Senate resolution that was accepted unanimously. That resolution stated, in view of the $92 Medicare hospital deductible increase that will

go into effect January 1, 1986, it is the sense of the Senate that the Committee on Finance should report legislation which will reform calculation of the annual increase in such deductible so that it is more consistent with annual increases in Medicare payments to hospitals.

The amendment that I am offering today would delay the imposition of the new hospital deductible 4½ months, to May 15, in order to give the Congress time to act. It would raise the cigarette tax a penny a pack for the next 3 years to assure that this delay does not increase the deficit.

Enactment of this amendment will send a message loud and clear that the Senate believes that our Nation's senior citizens should not be faced with that excessive, unfair increase in the Medicare hospital deductible on January 1, 1986.

I urge my colleagues in this body to join me in casting a vote for fairness for our senior citizens.

I ask a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Does the Senator from Massachusetts have a right to demand a division of this amendment?

The PRESIDING OFFICER. The amendment simply proposes to insert language. It contains two separate subsections. The amendment is divisible.

Mr. KENNEDY. Do I correctly understand that with a division, when we do vote on that, the first would be deferring the implementation of the increase in the deductible for 4½ months? Is that part of division A?

The PRESIDING OFFICER. The Chair does not interpret the effect of the amendment.

Mr. KENNEDY. For the benefit of the Members of the Senate, I say that that is the effect of such a first division.

The second part of the amendment would offset the increases in the budget some $60 million by a 1-cent tax on cigarettes.

That will be the effect of it.

Mr. President, I ask for yeas and nays on both divisions.

The PRESIDING OFFICER. Is there sufficient second?

There is not a sufficient second.

Mr. KENNEDY. Mr. President, I wish to renew that request or otherwise I wil ask for a quorum call.

Mr. HELMS. Mr. President, will the Senator withhold the quorum call.

Mr. KENNEDY. No.

If I cannot get a sufficient second, I will ask for a quorum call.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays on the amendment.

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

The yeas and nays were ordered.

Mr. HELMS. Mr. President, whether the Senator divides the amendment or not, it is subject to a point of order, either divided or as an entity.

I raise a point of order that it is legislation on an appropriations bill.

The PRESIDING OFFICER. The Senator from North Carolina has raised a point of order on the question of whether this is a legislation on an appropriations bill.

The amendment amends existing law and consequently it is legislation.

The point of order is sustained.

Mr. KENNEDY. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

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

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER [Mr. GORTON]. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, much as I admire the merits of many of the amendments of my good friend from Massachusetts, I think the point of order is well taken, and I move to table the appeal of the ruling of the Chair and ask for the yeas and nays on the motion to table.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon to lay on the table the appeal of the ruling of the Chair.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. EAST], the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. LAXALT], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DECONCINI], the Senator from Hawaii [Mr. INOUYE], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 37, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—53

Abdnor	Grassley	Nunn
Andrews	Hatch	Packwood
Armstrong	Hatfield	Pressler
Baucus	Hecht	Proxmire
Bentsen	Heflin	Pryor
Boschwitz	Helms	Quayle
Cochran	Hollings	Roth
D'Amato	Humphrey	Rudman
Danforth	Kassebaum	Sasser
Denton	Kasten	Simpson
Dole	Long	Stevens
Domenici	Lugar	Symms
Evans	Matsunaga	Thurmond
Ford	Mattingly	Trible
Goldwater	McClure	Wallop
Gore	McConnell	Warner
Gorton	Melcher	Zorinsky
Gramm	Murkowski	

NAYS—37

Biden	Exon	Metzenbaum
Bingaman	Glenn	Mitchell
Boren	Harkin	Moynihan
Bradley	Hart	Nickles
Bumpers	Hawkins	Pell
Burdick	Heinz	Riegle
Byrd	Johnston	Rockefeller
Chafee	Kennedy	Sarbanes
Cohen	Kerry	Stafford
Cranston	Lautenberg	Weicker
Dixon	Leahy	Wilson
Dodd	Levin	
Eagleton	Mathias	

NOT VOTING—10

Chiles	Garn	Specter
DeConcini	Inouye	Stennis
Durenberger	Laxalt	
East	Simon	

So the motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, we have now about three amendments.

Mr. President, we have about five amendments that are pending at some point in order. We will continue on to accommodate Members with their amendments for as long as any Members have amendments to offer.

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

Mr. HATFIELD. I am happy to yield.

Mr. JOHNSTON. A number of Senators on both sides of the aisle have inquired about whether we will have votes tonight. I indicated to some of my colleagues that we would try to find that answer at this point.

Mr. HATFIELD. I would expect we will have votes tonight because I would assume there will be those who will want a rollcall. I have talked to two Senators who expect to have to ask for a rollcall on their amendments.

I do not know about others. The Senator from Illinois is in a position to offer an amendment shortly, and I believe the Senator from Pennsylvania is going to be seeking recognition. I have not checked with how many want rollcalls. I have information given to me that there might be as many as four or five or six rollcalls.

Several Senators addressed the Chair.

Mr. FORD. Mr. President, will the floor manager yield for a question?

Mr. HATFIELD. I am happy to yield.

Mr. FORD. Is there a possibility, if there will be votes tonight, that we might have a window like from 6 until 8 or so?

Mr. HATFIELD. I hope so. I would certainly strive to get that unanimous-consent agreement with the leaders. I would have to take that up with the leaders.

Mr. FORD. Mr. President, I thank the chairman for yielding.

Mr. CHAFEE and Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. HEINZ. Mr. President, point of order.

The PRESIDING OFFICER. The Senator from Rhode Island has the floor.

Mr. CHAFEE. I would like to say to the manager of the bill that there is no unanimity here on having a window. Some would like to get it finished, not late, but leave at a reasonable hour. I mean the least attractive thing as far as this Senator goes is to leave, and have to come back. Why not quit at 6:30 or 7 and do it tomorrow?

Mr. HATFIELD. I indicated to the Senator from Kentucky that would be a matter for the leadership to determine. I certainly am willing to request of the leadership to get a unanimous-consent agreement to the floor in order to achieve that.

AMENDMENT NO. 1352

(Purpose: To limit the increase in the Medicare inpatient hospital deductible)

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, in a minute I am going to send an amendment to the desk that deals differently with the same problem that the Senator from Massachusetts, Senator KENNEDY, was attempting to address in his amendment which was defeated on a point of order. My amendment will cap at a nonetheless substantial level the part A Medicare deductible. That, unless we act, will rise by some $92 from $400 to $492.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HEINZ. I thank the Chair.

I serve, together with 19 of my colleagues, Mr. President, as a member of the Committee on Finance. In talking just a few moments ago with the chairman of our committee, Senator PACKWOOD, I had reconfirmed by recollection of the discussion of our Medicare legislation. It was my recollection that we knew at no time during the consideration of the Medicare amendments that are part of reconciliation, that an unintended consequence of the shift, the DRG, was going to result in this $92 per day deductible—you only pay it on the first day you are in the hospital—which sets, I am sorry to say, a tremendous record and also of sufficient size that the $92 is going to be keenly felt by the sick who will have to pay it.

We did not know that in shifting to a method of reimbursement, that is to say, prospective payment, which is going to save the taxpayers literally billions of dollars in the reconciliation legislation, that, in addition to that saving, there was going to be an added, very substantial beneficiary cost-sharing increment which is nothing less than a sick tax, a tax on the sick.

Had we known it at the time of our markup, there is no doubt in my mind that we at the very least would have found a way to mitigate the increase. We would have found a way to pay for that mitigation. We would have shared the increased cost some other way, with some other group in the jurisdiction of the Finance Committee.

As I said, I posed all of those possibilities in the chairman of the Finance Committee. He was candid. He said it was quite right, we really did not see this coming at the time we were marking up.

I know we all probably feel we ought to address this on reconciliation, that the proper measure that we ought to amend is in fact the reconciliation bill. But we do not have that opportunity anymore because that bill is in conference. We do not know when the conference on reconciliation will conclude. What we do know is that on January 1 this deductible is going to go into effect.

My amendment, Mr. President, would cap the increase.

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

Mr. DIXON. Will my friend from Pennsylvania yield for a question?

Mr. HEINZ. If I may just explain the amendment, I will be happy to yield.

Mr. DIXON. Is the Senator offering an amendment?

Mr. HEINZ. The Senator is going to offer an amendment in just a moment. But, as you know, the rules of the Senate provide that once I offer an amendment, I lose my right to the floor if the rules are strictly enforced. I would not have a chance to explain the amendment. It is possible that a point of order could be made against the amendment. I hope not. But that is why I am pursuing this particular course.

Mr. SIMPSON. Mr. President, if the Senator from Pennsylvania would yield, I shall try to bring our colleagues up to speed, perhaps, on where we are.

Mr. HEINZ. If I may yield without losing my right to the floor.

Mr. SIMPSON. Indeed, without losing his right to the floor.

Mr. President, the majority leader indicated previously where we might be going. I must defer to the chairman of the Appropriations Committee. He has a chore to perform. He is making every effort to do that.

He has also indicated to all of us where this procedure is going to go, where it will end. It is a rather perilous course that he has outlined. The worth of the exercise we are going through here does not detract in any way from the substance of the amendments.

I do not think people have been prepared for a late evening this evening. That had not been the intention of the leadership. I would suggest that you continue to heed the words of the chairman of the Appropriations Committee, the floor manager of the bill, and Senator Johnston, the ranking member, as to what is their intention this evening. I would hope we would pursue and hope to get some votes on issues and then reassess this matter in another hour or so. We would have a better idea of what we need in the way of windows for 1½ hours or 2 hours, or where we will go with regard to later activity tonight.

That is about the best information I can provide.

Mr. DIXON. Will the assistant majority leader yield?

The PRESIDING OFFICER. The assistant majority leader does not have the floor to yield. The Senator from Pennsylvania has the floor.

Mr. HEINZ. I will yield for a question from the Senator from Illinois without losing my right to the floor.

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

Mr. DIXON. May I say that I told the majority leader that I have had an amendment at the desk for some time. When the Senator from Pennsylvania concludes with his amendment, I am prepared to go forward with my amendment.

The PRESIDING OFFICER. The Senator from Pennyslvania.

Mr. HEINZ. What my amendment would do would be to cap the increase in the part A premium at $476 instead of allowing to rise to $492. I frankly would have preferred to see it lower, but I have consulted with a number of the aging groups who feel keenly about what this may do to their constituencies. They recognize that we have a revenue problem, a deficit

problem, and a spending problem. They do not wish to unduly compound our difficulties.

As a result, this amendment would limit the increase in the part A deductible to about a 19-percent increase instead of about a 23-percent really whopping increase that we will have on January 1 unless we adopt this amendment, or one like it, or one like the amendment of the Senator from Massachusetts, Senator KENNEDY, who tried to offer his amendment a while ago.

I would hope that my colleagues would support this amendment and that we could vote it up or down on the merits.

I would like to briefly read into the RECORD the sizes of the increases in the part A deductible since 1980.

In 1980, Mr. President, the part A deductible was $180. It increased $24 the next year, 1981, to $204. The year after it increased by $56, to $260. In 1983, it increased by $44, to $304. In 1984, it increased by another $42, to $356. In 1985 it increased by $44, to an even $400. As I said a moment ago, this time it would increase not by $24, not by $56, not by $44 or $42, but it would increase by $92, all out of proportion to logic and reason if an amendment such as this is not adopted.

I hope, Mr. President, that my colleagues will support this amendment.

Let me say again—and I do not think that there is anyone who would rebut this—that when the Finance Committee attended to the issue of Medicare cost-sharing and savings in Medicare, we had absolutely no idea, there was nothing on the record that we knew of, that this was the size of the increase in the deductible that we were facing. And there is a terrible irony in it. The savings from prospective payment to our country are enormous, literally billions of dollars, and what we do if we not adopt this amendment is that we are conceding that, in spite of the fact that we are saving more now on Medicare, the beneficiaries ought to pick up a vastly increased amount of the cost of Medicare, on which we are saving a lot of money. To my mind, it makes no sense that we should have beneficiaries paying a vastly increased amount because of a saving initiative that is successful.

So, Mr. President, I send my amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator is informed that the pending business is the amendment of the Senator from Washington [Mr. GORTON], the present occupant of the chair.

Mr. HEINZ. Mr. President, would it be in order to ask unanimous consent to temporarily lay aside the pending amendment to send my amendment to the desk?

The PRESIDING OFFICER. It would be in order.

Mr. HEINZ. I so ask, Mr. President.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside in order that the amendment offered by the Senator from Pennsylvania may be considered.

Mr. HEINZ. I thank the chairman. I thank all Senators.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ], proposes an amendment numbered 1352.

At the appropriate place insert the following:

SEC. . Notwithstanding section 1813(b) of the Social Security Act, the inpatient hospital deductible for purposes of section 1813(a) of such Act for calendar year 1986 shall be $476.

Mr. HATFIELD. Mr. President, I make the point of order that this is legislation on an appropriations bill.

The PRESIDING OFFICER. The amendment of the Senator from Pennsylvania proposes an exception to existing law and consequently is legislation on an appropriations bill. The point of order is well taken.

Mr. HEINZ. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. HATFIELD. Mr. President, I move to lay the appeal of the Senator from Pennsylvania on the table.

Mr. HEINZ. Mr. President, I ask for the yeas and nays on the motion to table.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the appeal on the table. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from South Dakota [Mr. ABDNOR], the Senator from Mississippi [Mr. COCHRAN], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE] the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. EAST], the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. LAXALT], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DECONCINI], the Senator from Ohio [Mr. GLENN], the Senator from Hawaii [Mr. INOUYE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 41, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—45

Armstrong	Helms	Proxmire
Baucus	Humphrey	Pryor
Bentsen	Johnston	Quayle
Bingaman	Kassebaum	Rockefeller
Boschwitz	Long	Roth
Danforth	Lugar	Rudman
Denton	Matsunaga	Simpson
Domenici	Mattingly	Stafford
Evans	McClure	Stennis
Ford	McConnell	Stevens
Goldwater	Moynihan	Symms
Gorton	Murkowski	Thurmond
Gramm	Nunn	Trible
Hatfield	Packwood	Wallop
Hecht	Pressler	Zorinsky

NAYS—41

Andrews	Gore	Levin
Biden	Grassley	Mathias
Boren	Harkin	Melcher
Bradley	Hart	Metzenbaum
Bumpers	Hatch	Mitchell
Burdick	Hawkins	Nickles
Byrd	Heflin	Pell
Chafee	Heinz	Riegle
Cohen	Hollings	Sarbanes
Cranston	Kasten	Sasser
Dixon	Kennedy	Warner
Dodd	Kerry	Weicker
Eagleton	Lautenberg	Wilson
Exon	Leahy	

NOT VOTING—14

Abdnor	Dole	Inouye
Chiles	Durenberger	Laxalt
Cochran	East	Simon
D'Amato	Garn	Specter
DeConcini	Glenn	

So the motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1351

Mr. HATFIELD. Mr. President, I believe the Gorton amendment is the pending business.

The PRESIDING OFFICER. The Senator is correct.

The Senate will be in order. Will Senators who are conversing please retire to the cloakroom?

Mr. HATFIELD. Mr. President, the matter of the Gorton amendment, which is pending, has been debated and has now been cleared on both sides of the aisle and is ready for action.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. Is there further debate?

Mr. HEINZ. Mr. President, one question.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Is there any cost to the Federal Government associated with this amendment?

Mr. GORTON. The Senator from Pennsylvania is informed that this amendment authorizes the Navy to settle a judgment which the State of Washington has against it, and it has been affirmed by the Supreme Court of the United States, out of available funds. In that sense, of course, there will be a cost, but it will not add to the appropriation.

Mr. MATTINGLY. That is true.

Mr. HEINZ. And there is agreement that that is good?

Mr. GORTON. Yes. It is an obligation of the Federal Government.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1351) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1349

Mr. DIXON. Mr. President, I have an amendment at the desk, amendment No. 1349, and it will be necessary to modify that amendment to reflect an agreement that I have achieved with the distinguished manager of the bill and the manager on our side. So I send an amendment to the desk which is a modification of the original amendment, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 1349, as modified.

Mr. DIXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment as modified, is as follows:

On page 10, line 19, after "Haiti" insert a colon and the following:

"*Provided further*, That not more than $1,711,286,666 may be made available to carry out Chapter 4 of part II of the Foreign Assistance Act of 1961 (other than any project, activity, or other assistance for Israel or Egypt)."

Mr. DIXON. Mr. President, this amendment has been agreed upon between the managers on each side. It reduces funding for the economic support funds from $3.8 billion to $3.725 billion.

In effect, what has happened here is that the House numbers on the economic support fund are $150 million below the Senate numbers.

By agreement between the managers on each side, we have agreed to reduce the amendment that I had originally intended to offer so that the savings is $75 million instead of $150 million. In effect, this still puts the Senate level $75 million above the House level.

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

Mr. DIXON. I yield.

Mr. JOHNSTON. Mr. President, the Sentor correctly reflected our conversation. In the meantime, I am advised that Senator INOUYE is not here. He is the ranking minority member of this subcommittee.

I wonder if the Senator could put the matter off until tomorrow until Senator INOUYE would have a chance to look at it?

Mr. DIXON. Let me say, Mr. President, that I have no problem in accommodating anyone who wants to look at this amendment with the understanding that should the distinguished senior Senator from Hawaii, when he looks at it, change the agreement that I have entered into with the managers of the bill, I would then want to offer the $150 million cut instead.

Mr. JOHNSTON. Of course.

Mr. DIXON. I would not want to hold the managers to an agreement that they feel is subject to reexamination in the view of someone who has an interest in the matter.

I hope no one thinks I was trying to overreach. I simply went to the two managers without any knowledge that anyone else had any interest in this subject.

May I say again this is higher than the House number.

Mr. HATFIELD. Mr. President, will the Senator from Illinois yield?

Mr. DIXON. I yield.

Mr. HATFIELD. I say to the Senator from Illinois that he is precisely correct. The managers of the bill did make an agreement with him on that. We are in that position where the Appropriations Subcommittee chairman and the ranking Democrat of that subscommittee have not been consulted. With our apologies, we feel that we will have to vitiate that agreement we made.

Mr. DIXON. I would not want to hold any manager to an agreement entered into that anyone has any difficulty with. I do not do so.

Mr. HATFIELD. I urge the Senator to pursue his amendment and let us dispose of it in an orderly fashion as he had originally presented it in the writing to us and have the right to amend his amendment to put it back to the original figure.

Mr. DIXON. Mr. President, under the circumstances I suppose the appropriate thing to do is to ask unanimous consent that my pending amendment be set aside until such time in the morning when we can again take the matter up either keeping this agreement, if the distinguished senior Senator from Hawaii is willing to sign off on it, or offering my original amendment, if not.

Mr. HATFIELD. I would object to any unanimous agreement to set any amendment aside until tomorrow because that assumes we will be on the continuing resolution until tomorrow. I would like to continue on the pathway of attempting to finish the continuing resolution tonight.

I would agree to temporarily lay aside the Senator's amendment making it the pending amendment. I hope to dispose of it tonight with or without the Senator from Hawaii or other persons being present necessarily.

Mr. DIXON. I simply ask unanimous consent that my amendment be set aside for the time being while we take under consideration other business and we reach it at the appropriate time.

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

AMENDMENT NO. 1353

(Purpose: To amend the Ethics in Goverment Act of 1978 to improve the confidential disclosure system for executive branch personnel)

Mr. COHEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN] for himself and Mr. LEVIN proposes an amendment numbered 1353.

Mr. COHEN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the resolution insert the following:

SEC. . (a) This section may be cited as the "Ethics in Government Act Amendments of 1985".

(b) Section 207 of the Ethics in Government Act of 1978 is amended—

(1) by striking out the heading for such section and inserting in lieu thereof the following:

"CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS";

(2) by striking out the first sentence in subsection (a) and inserting in lieu thereof the following: "(1) The President may require officers and employees in the executive branch (including the United States Postal Service, the Postal Rate Commission, members of the uniformed services, and special Government employees as defined in section 202 of title 18, United States Code) to file a confidential financial disclosure report, in such form as the President may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency shall be set forth in regulations prescribed by the President, and may be less extensive than otherwise required by this title, or more extensive when determined by the President to be necessary and appropriate in light of sections 202 through 209 of

title 18, United States Code, regulations promulgated thereunder, or the authorized activities of any such department or agency. Any individual required to file a report pursuant to section 201 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title."; and

(3) by adding at the end of subsection (a) the following new paragraph:

"(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.".

(c) The amendments made by this section shall be effective 90 days after the date of enactment of this section.

Mr. COHEN. Mr. President, the amendment I am offering today on behalf of myself and Senator LEVIN would clarify and improve the legal authority for the confidential financial disclosure system that applies to the executive branch. The amendment is necessary due to the Department of Justice's interpretation of the Ethics in Government Act of 1978 concerning the President's authority to require Government officials to file confidential financial disclosure reports with their Government agencies. It is a noncontroversial amendment but is an important one in the sense that we must take action soon or we are going to miss a very important deadline next spring.

In addition to the public financial disclosure reports required by the Ethics Act, the executive branch administers a cofidential financial disclosure reporting system. Under this system, which was established by Executive Order 11222, entitled "Prescribing Standards of Ethical Conduct for Government Officers and Employees," approximately 100,000 employees between the GS-13 and GS-16 pay levels file confidential disclosure statements with their respective agencies. These reports are the only means of knowing whether these officials, many of whom are responsible for the day-to-day decisions of Government, have actual or potential conflicts of interest with their official duties.

Department of Justice opinions have interpreted certain provisions of the Ethics in Government Act as superseding this confidential financial disclosure system that has been in effect since 1965.

The Department of Justice has taken the position that confidential financial statements should not be collected until a new reporting system is established, either by a new Executive order or legislation. Furthermore, the Department has suspended the collection of confidential disclosure statements from its own employees.

To date, we have been fortunate that other agencies have, under the direction of the Office of Government Ethics, continued to collect these important reports. It is crucial, however, that the Congress clarify ambiguities in the Ethics Act before the 1986 filing seasons for these reports begins, so that agencies requiring reports will not be subject to challenge by employees not wishing to file. It is also important to correct this technical problem in the Ethics Act so that other agencies do not follow the example of the Justice Department in not collecting these reports.

The amendment I am offering today would give clear authority to the President to establish an appropriate confidential disclosure reporting system covering employees who are not required to file publicly under the Ethics Act. The reports required could be less or more extensive than the public reports required by the Ethics Act, depending upon the needs of specific agencies. This change is intended to remedy problem language found in section 207(a) of the Ethics Act that any confidential reports required by the President must be "in the same form" as the public reports. In many instances, requiring the same information as required in public reports would be administratively costly and burdensome, and unnecessary to detect conflicts of interest by these midlevel employees. To date, the President has not established a new confidential reporting system due to this restrictive language in the act.

The amendment also authorizes the President to require executive branch officials who file publicly under the Ethics Act to file additional information confidentially when such facts are necessary to enforce the conflict of interest laws or the authorized activities of any department or agency.

It is expected that the President would delegate his authority under this amendment to the Director of the Office of Government Ethics who is charged by law to be the coordinator and head of the executive branch ethics program.

Mr. President, I want to stress that this amendment pertains only to those provisions of Executive Order 11222 that deal with confidential financial disclosure. This amendment in no way attempts to alter the provisions of that Executive order that set forth standards of conduct for Government employees. Further, nothing in this new subsection should be construed to restrict the public financial disclosure reporting system that has been established by the Ethics Act.

My amendment is based on legislation that has been proposed by the Office of Government Ethics and submitted to Congress by OGE's parent agency, the Office of Personnel Management. The Office of Government Ethics testified in favor of this proposal last April in hearings before my Subcommittee on Oversight of Government Management. Both the OGE and agency ethics officials have stated that a confidential financial disclosure system is crucial to an effective ethics program. By removing the statutory obstacle to establishing a confidential reporting system that suits the needs of the agencies. we hope that the President will act expeditiously to issue a new Executive order governing confidential financial disclosure.

Mr. President, as ranking minority member and chairman of the Subcommittee on Oversight of Government Management, which exercises jurisdiction over the Ethics Act, Senator LEVIN and I have repeatedly seen the importance of disclosure to ensure that Government officials and employees are acting in the best interest of the people they serve, rather than in their own interests. It is only through adequate disclosure that the Government—and the public—can be sure that its officials are acting free from conflicts. I urge my colleagues to adopt this amendment in order to signal the Congress' continued commitment to a strong ethics program in the Federal Government.

There is no controversy over the amendment. We have cleared it with Senator ROTH and Senator EAGLETON, the chairman and ranking member of the Committee on Governmental Affairs, and I would ask that it receive the approval of this body.

Mr. LEVIN. I thank the Chair.

Mr. President, I congratulate my friend from Maine in his leadership in this area.

This is a technical amendment. He described it well. I commend him.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine.

The amendment (No. 1353) was agreed to.

Mr. COHEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I ask the Senator from Maine, just in order to put it on the public record, the discussion the Senator and I had prior to the adoption of his amendment, that this matter had been cleared with the authorizing committee of the Senate.

Mr. COHEN. The Senator is correct.

Mr. HATFIELD. I thank the Senator from Maine.

AMENDMENT NO. 1354

(Purpose: To place a cap on the Military Assistance Program)

Mr. PRYOR. Mr. President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. There is an amendment by the Senator from Illinois which recurs at this time and must be set aside to proceed with the amendment of the Senator from Arkansas.

Mr. DIXON. Mr. President, I ask unanimous consent that my amendment be set aside once again.

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

The amendment is set aside of the Senator from Arkansas.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] for himself, Mr. LEAHY, Mr. BINGAMAN, Mr. MELCHER, and Mr. DIXON proposes an amendment numbered 1354.

On page 10, line 19, before the period insert a colon and the following: "Provided, further, That not more than $764,648,000 may be available under the heading 'Military Assistance'."

Mr. PRYOR. Mr. President, I submit this amendment this afternoon on behalf of myself, Mr. LEAHY, Mr. BINGAMAN, Mr. MELCHER, and Mr. DIXON.

Mr. President, this amendment would cut the Military Assistance Program—that is the military grant part of the program for foreign assistance—by a mere, modest $40 million. This cut would be the same figure as proposed and accepted by the House of Representatives.

The committee, I might say, has voted to freeze military grant funding at last year's level of $805 million. My amendment would bring the total down to the House-approved level of $765 million.

This cut in no way would effect military assistance to Israel, which receives its funding through the Foreign Military Sales Program and the Economic Support Fund.

Mr. President, we need to take a very close look at enormous increases in our security assistance internationally over the last few years. Even should this amendment be adopted by the Senate and the reduction made of $40 million, we would have increased the military grant program by 400 percent since 1981. During the same period of time, economic support funds have increased by 69 percent; military aid by 88 percent; and development assistance, Mr. President, by only 2 percent in constant dollars.

Mr. President, I think this amendment is a good amendment. It is sound. It is a modest reduction. It is in compliance with what the House of Representatives has done. I ask, Mr. President, that this amendment be considered favorably.

Mr. President, I am prepared to vote on this amendment if the managers do not wish to accept it.

I reserve the balance of my time.

Mr. President, it is my pleasure to sponsor this amendment with my distinguished colleague, Senator PRYOR. Both of us have been involved in continuous efforts to bring our military assistance program funding levels down to a reasonable level, while at the same time protecting our national interest by working with our allies around the world.

Mr. President, last year's effort to slow down the increase in military aid to foreign countries reminded all of us that spending in this area increased by several hunderd percent from 1981 to 1985. For the past several years, we have been cutting many worthwhile domestic programs in an effort to bring this Nation's deficit under control. This disproportionate growth in military aid to various nations continues to be unreasonable and unfair.

This year, the Senate has an opportunity to lower the fiscal year 1986 figure to $765 million. Mr. President, even a $40 million reduction is a small step. If this effort is successful, we would still have funded a 400-percent increase in our overall military grant program since 1981. What we are proposing is a step in the direction of fiscal responsibility. We cannot continue to ask the American people to make sacrifices at home when we are unable to make similar serious reductions in the area of military assistance abroad.

Mr. President, I believe in a strong defense. I support funding levels in our foreign and military assistance programs which will provide our allies and friends with a strong defense. Unfortunately, we cannot justify these kinds of funding levels to American farmers, small businesses, students, senior citizens, or taxpayers generally. Budget sacrifices must be shared. For these reasons, I urge my colleagues to support this amendment.

Mr. KASTEN. Mr. President, the amendment by the Senator from Arkansas would cut the military assistance program by approximately $65 million, a cut which would be on top of a cut which we made in the committee of roughly 18 percent from the administration's request level. We are already 18-percent below the administration's request level in this program and now this would be a cut of $65 million more.

The appropriations level, $805 million, is the same as that provided in 1985 and the same as that provided in the authorization legislation which has passed this body.

Mr. President, it is a popular position these days to cut foreign aid. The foreign aid provision of the continuing resolution before the Senate now is $5 billion below the 1985 appropriation—$5 billion less than last year. That is almost a 25-percent reduction. Mr. President, there is not another of the remaining 12 appropriation bills that has been cut from last year's level to this year's by anything near this amount.

Now this amendment would go further, and it would cut a program which is absolutely vital to U.S strategic interests around the world. Mr. President, this program assists friendly countries obtain reasonable defense capabilities which benefit U.S. interests far in excess of the actual dollar costs. Programs provided by this and the FMS program directly reduce the possibility that U.S. Forces instead would be required in order to protect vital U.S. interests overseas.

As I mentioned, the amount in the bill is already 18-percent below the administration's request, and any further reduction would substantially reduce expected country levels and be perceived by our friends and allies as a demonstration that the United States is less than a reliable defense partner.

Mr. President, the foreign assistance program is often criticized. I have, as chairman of the Foreign Operations Subcommittee, been critical of the Foreign Operations Program and I think the criticism that all of us level is, in many cases, justifiable. It is rampant with large inefficiencies, and we are working to try to deal with that. But this particular program is, I believe, an exception. It is one of the better run foreign aid programs we have. Mr. President, I think the Members of the Senate should clearly understand what we are talking about here as far as which countries receive this aid and why. The lion's share goes to countries with which we have security relationships, usually base rights or base access agreements. Its major recipients include Morocco, Portugal, Turkey, Kenya, Somalia, Tunisia, and the Philippines, and, of course, a major part of the program goes to countries in Central America who are trying to combat active Soviet backed insurgencies—countries such as Honduras and El Salvador.

Mr. President, the chairman of the Foreign Relations Committee may wish to be heard on this question. I do not see him here. But I just want to point out the fact that this level is also the authorized level. It is not just the appropriated level.

I would have to rise in opposition. At one point, I will make a motion to table the amendment, but I do not want to cut off other debate.

Mr. PRYOR. Mr. President, I appreciate the remarks and the position of my distinguished friend from Wisconsin.

I wish to conclude my argument, Mr. President, by stating two things. First—and this is not the fault of the Senator from Wisconsin—my original amendment which was basically to comply with the House language, was a cut of $65 million. This amendment, which was drafted later is a cut of $40 million and not $65 million. And that is a mistake of the Senator from Arkansas and not the Senator from Wisconsin.

Second, the Military Assistance Program, since 1981, has risen by 400 percent. There is no program throughout the whole spectrum of our National

Government nor our international commitment that has risen anywhere near that degree of increase.

Finally Mr. President, this program, the Military Assistance Program, is not a loan program. It is a grant program. And I believe it is time to further scrutinize the use of these tax dollars.

With that, Mr. President, I will conclude my statement. I ask a favorable vote on this amendment and hope that the Members will vote against the tabling motion.

Mr. KASTEN. Will the Senator yield for a question?

Mr. PRYOR. I am glad to yield.

Mr. KASTEN. I listed some of the recipient countries, like Morocco, Portugal, Turkey, Kenya, Somalia, Tunisia, et cetera. Does the Senator have a suggestion as to what specific countries he would single out that we would take the money from? In certain cases, as the Senator must know, we have base rights agreements with them. These are negotiated dollars. Does the Senator have any suggestion in this amendment? I have not seen it since he changed the number, and I do not know if he targets specific countries.

Mr. PRYOR. In this amendment I am making no suggestions as to cuts for particular countries. I would just like to state to my distinguished friend that in the Philippines, the MAP funding would double under this year's bill from $25 million to $50 million. In addition to the military grant, President Marcos would receive $2.25 million in training funds and $20 million in the Foreign Military Sales Program, not to mention economic support funds. If you go to Peru, if the distinguished Senator would like to known those figures, the military aid programs there increased from zero to $18,350,000—that might be a possibility—and in Jamaica, from $5 million to $8 million.

There are big increases in many of these countries. Of course, it would be up to the administration to make the decision as to where any cuts would be. I certainly hope that the Senate will favorably consider my amendment. I believe it is an amendment recommending sound policy and certainly good economic sense.

Mr. KASTEN. I thank the Senator for his response to my question. I just wish to point out that, in a large number of these cases—the Philippines would be a good example—both the authorizing committee and the appropriations committee have carefully considered these issues. We have cut, for example, from a requested $100 million to, I believe, $75 million in both the authorization and the Appropriations Committees. So we have made a number of significant reductions; as I said before, roughly 18 percent from the administration's request in this particular account.

And I do not think that we can afford to go further.

Mr. President, I move to table the amendment.

Mr. PRYOR. Mr. President, I ask for the yeas and nays.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin to lay on the table the amendment of the Senator from Arkansas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from North Carolina [Mr. EAST], the Senator from Utah [Mr. GARN], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nevada [Mr. LAXALT], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Arizona [Mr. DECONCINI], the Senator from Ohio [Mr. GLENN], and the Senator from Hawaii [Mr. INOUYE] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

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

The result was announced—yeas 51, nays 38, as follows:

[Rollcall Vote No. 359 Leg.]

YEAS—51

Abdnor	Grassley	Murkowski
Andrews	Hatch	Nickles
Armstrong	Hatfield	Packwood
Biden	Hawkins	Pressler
Boschwitz	Hecht	Quayle
Chafee	Heinz	Roth
Cochran	Helms	Rudman
Cohen	Humphrey	Simpson
Danforth	Johnston	Stafford
Denton	Kasten	Stennis
Dodd	Kerry	Stevens
Domenici	Lugar	Symms
Durenberger	Mathias	Thurmond
Evans	Mattingly	Trible
Goldwater	McClure	Wallop
Gorton	McConnell	Warner
Gramm	Moynihan	Wilson

NAYS—38

Baucus	Gore	Mitchell
Bentsen	Harkin	Nunn
Bingaman	Hart	Pell
Boren	Heflin	Proxmire
Bradley	Hollings	Pryor
Bumpers	Kennedy	Riegle
Burdick	Lautenberg	Rockefeller
Byrd	Leahy	Sarbanes
Cranston	Levin	Sasser
Dixon	Long	Simon
Eagleton	Matsunaga	Weicker
Exon	Melcher	Zorinsky
Ford	Metzenbaum	

NOT VOTING—11

Chiles	East	Kassebaum
D'Amato	Garn	Laxalt
DeConcini	Glenn	Specter
Dole	Inouye	

So the motion to lay on the table amendment No. 1354 was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1349

Mr. KASTEN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Dixon amendment No. 1349 as modified.

Mr. KASTEN. Mr. President, we have had an opportunity to work with the Senator from Illinois over the last few minutes. I believe that we may be able to reach some kind of agreement on the amendment as modified.

I inquire if we are ready to go at this point.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I thank the Chair. I send to the desk an amendment which has been drafted in consultation with the distinguished Senator from Wisconsin and the managers of the bill and ask for its immediate consideration.

The PRESIDING OFFICER. The question before the Senate is the Dixon amendment numbered 1349. Does the Senator wish to set that aside?

Mr. DIXON. Mr. President, I wish to set aside amendment No. 1349. I thought that had already been done. I am sending an amendment to the desk for immediate consideration. I ask that amendment No. 1349 be set aside.

The PRESIDING OFFICER. The Senator wishes to set aside amendment No. 1349. Is that correct?

Mr. DIXON. That is correct.

The PRESIDING OFFICER. The amendment will be set aside.

AMENDMENT NO. 1355

The PRESIDING OFFICER. The clerk will state the amendment of the Senator.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON] proposes an amendment numbered 1355.

On page 10, line 19, after "Haiti" insert a colon and the following:

Provided further, That notwithstanding any other provision of this subsection, that not more than $3,745,000,000 may be made available for the "Economic Support Fund."●

Mr. DIXON. Mr. President, I rise to offer an amendment ot reduce funding for the economic support fund [ESF], from $3.8 to $3.745 billion, which amounts to a savings of $55 million. Let me state at the outset that Israel and Egypt will be held harmless under by amendment, because those nations' funds are earmarks in the bill.

The reason for this amendment is simple and straightforward: Since

fiscal year 1980, ESF has witnessed almost a full 100 percent growth in its budget—$1.946 billion in fiscal year 1980 to $3.800 billion in the committee bill appropriation. As far as the Senator from Illinois is concerned, it would be absolutely unfair and inappropriate to allow this sort of enormous growth in a period of fiscal conservation, when even the most worthwhile domestic social safety net programs are required to absorb cut after cut.

A few examples should illustrate my point:

The summer youth employment program was cut by $100 million from fiscal year 1985 in this year's budget. That means that literally thousands of urban youths will be without jobs this summer, who might otherwise have been gainfully employed. I tried to rectify that oversight, but was unsuccessful. Why? Because fiscal conservatism is uppermost in everyone's mind, even if that means that thousands of youngsters will be forced to suffer.

The dislocated worker program absorbed a cut of $122.5 million from the prior fiscal year. I tried to restore that money, too, but again, the banner of fiscal responsiblity was hoisted up the flagpole, to the detriment of those workers who would otherwise have been retrained for productive jobs in the private sector.

Mass transit is down $517 million from fiscal year 1985.

Highways are down $500 million below this year's budget request.

Community development grants have been cut drastically, by $347,200,000 from fiscal year 1985. These block grants are intended to finance block grants for such programs as adequate housing, a suitable living environment and expanded economic opportunities for low-income groups. So the community development program is taking it on the chin, too.

Student loans are down, food stamps have been cut back, revenue sharing is soon to be a creature of the past. The list goes on and on, Mr. President, Sitting over in the corner quietly, however, is the economic support program—up 100 percent since 1980. ESF is now provided to 44 nations and regional programs, compared to 11 in 1980. ESF just rolls down the hill, like a big, fat snowball, gathering speed and size, as it goes on its merry way.

Enough is enough, Mr. President. My amendment would reduce the funding level of ESF—from $3.8 to $3.745 billion. I find it exceedingly ironic, Mr. President, that the Senate figure is greater than the House figure. Since when is this so-called fiscally conservative Chamber more liberal than the House?

There it is, Mr. President. This amendment will save the taxpayer approximately $55 million. I believe it is a prudent amendment, and I urge its adoption.

Mr. President, the figure in my amendment is the correct figure that has now been agreed to by the distinguished Senator from Wisconsin, the managers of the bill, and others. I believe I could successfully represent at this point that this amendment, which reduces the amount of appropriated funds for the economic support fund by $55 million, striking a compromise between the House and the Senate, is an agreed amount. I wonder if the Senator from Wisconsin would comment upon that.

Mr. KASTEN. Mr. President, first, I would like to ask of the Senator from Illinois if it is his intention to withdraw the amendment that has been set aside. Is that correct?

Mr. DIXON. That is my intention.

Mr. KASTEN. And this is the only amendment on this subject that the Senator intends to bring forward?

Mr. DIXON. That is correct.

Mr. KASTEN. Mr. President, the committee position was a position which we believe was the necessary amount for us to go into conference with. All of these issues are issues that are going to be worked through and negotiated. I shall agree to the Dixon amendment at this time, recognizing the fact that it might weaken our position in conference somewhat, but I think we still will be able to have a strong economic support fund.

I also recognize the interests and the needs of other Members who have been working with the Senator from Illinois over the afternoon.

Therefore, Mr. President, I shall not object to the amendment.

Mr. JOHNSTON. Mr. President, the amendment is also acceptable to this side of the aisle specifically and is consistent with the position of Senator INOUYE.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1355) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1349 WITHDRAWN

Mr. DIXON. Mr. President, I withdraw amendment No. 1349, if I may have unanimous consent to do so at this time.

The amendment (No. 1349) was withdrawn.

AMENDMENT NO. 1356

(Purpose: To express the sense of the Congress concerning reforms in United States foreign military assistance programs)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 1356.

Mr. MURKOWSKI. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

At the end of the bill, insert the following:

The foreign debt burdens of many third world nations have contributed to their economic decline and inability to engage in a significant economic recovery;

The United States foreign military assistance loan programs, which have had very high interest rates in past years, have contributed to the security of our friends and allies, but also have played a contributing role in adding to the debt burdens of many of our friends and allies;

United States foreign aid has, among its major objectives, the enhancement of the military and economic security of our friends and allies and our own security;

A foreign assistance program which adds significantly to the debt burdens of our friends and allies by forcing the weaker of those nations to use funds which could be used for development for repayment of loans impairs their economic development unnecessarily and is not in either their or our interest;

The past few years have seen several positive legislative steps taken to alleviate the FMS loan-related debt burdens of our friends and allies by reducing interest rates, stretching out the repayment period of these loans, and by increasing the level of MAP grants and forgiven FMS credits;

These steps have helped to ease these problems in the short term, but the long-term debt servicing problems of our friends and allies remain;

It would be in the best interests of our friends and allies to alleviate their debt burdens brought about by past loans and to bring about a more streamlined and straightforward approach to then programs in this area;

Such streamlined, straightforward programs would make it easier to develop country programs and would ease current pressures on the United States to grant to aid recipients the most favorable terms on their military loan programs: Now therefore,

(1) it is the sense of the Congress that a more simplified, streamlined, straightforward foreign military assistance program is in the national interest and in the interest of the military and economic security of our friends and allies throughout the world;

(2) that greater concessionality to match economic need as appropriate should be incorporated into future military assistance programs;

(3) that FMS loan programs extending the repayment period beyond the useful life of the items to be purchased could tend to increase the long-term debt burdens of our friends and allies;

(4) that the FMS concessional loan program contains a significant grant element to the recipient nation and that Congress should actively consider replacing this program with a more straightforward approach;

(5) the President is urged to propose, in the next formal Congressional Presentation

for Security Assistance Programs, reforms and refinements in the foreign military assistance programs along these lines for consideration by the appropriate committees of the Congress.

Mr. MURKOWSKI. During the last few months, it has become increasingly clear that our foreign military assistance programs are in need of some major refinements, including adherence to the principle of truth-in-lending. And the key reason is because past foreign military assistance [FMS] loans have added to the onerous debt burdens some of our friends and allies have to bear.

Let us look at the worst examples:

[In millions]

Country	Total official debt	FMS debt
Israel	$12,000	$8,750
Egypt	8,500	4,550
Turkey	3,500	1,900
Jordan	830	325
Morocco	950	195
Sudan	400	105

Note.—All figures approximate.

While the rest of our military aid recipients are not in as extreme a situation, there is the potential that they could be unless some basic reforms are made in implementing our military assistance programs.

CONGRESSIONAL SUPPORT FOR FMS/MAP REFORM

The Congress has come slowly but surely to recognize these trends and to realize that it makes no sense to assist our friends and allies militarily while weakening their economies with added debt burdens. The Appropriations Committee report on the fiscal year 1986 foreign assistance appropriation bill encourages FMS debt reform for this very reason. Further, several requirements in the fiscal year 1986-87 foreign assistance authorization bill require the administration to explore additional ways to solve this long-term problem.

EARLIER REFORMS

In testimony before the Senate Foreign Relations Committee during a hearing on this subject last September 30, Under Secretary of State for Security Assistance William Schneider agreed with the need to find ways to alleviate the FMS debt problem and not to contribute further to it. He noted that the last few years have seen the creation or expansion of various programs, including special provisions for Israel and Egypt, that is, forgiven FMS credits; concessional—reduced rate—loans; extended-term repayment—30 years instead of the normal 12—loans; grace periods of interest-only repayment; rescheduling of payments; and the grant Military Assistance Program [MAP]. Each of these has helped slow the trend toward increased debt.

On November 18, the administration's mandated report on the military assistance system documented the debt problems noted above. Further, it stated that the Guarantee Reserve Fund, which is used when countries cannot repay their FMS loans on time, is at an unprecedentedly low level because of the problems some of our friends and allies have had in repaying their loans. It concluded that a new approach to funding this program and, by implication, resolving the FMS debt problem, was essential.

MORE FUNDAMENTAL REFORM NEEDED

I agree with the administration and the relevant committees on the objectives of previous FMS/MAP reforms. But I believe the means which have been created or suggested so far, while well-intentioned, are insufficient and, in one case, should be abolished. That was why, during the debate on the foreign assistance authorization bill last May, I proposed amendments to reform these programs so as to implement a more honest and open approach to these programs which will not add to our allies' debt burdens.

My proposals, which are explained further in an attachment, which I shall ask to have printed in the RECORD following my remarks, would simplify and refine our FMS and MAP Programs in the following ways:

A. REPEAL EXTENDED 30-YEAR REPAYMENT LOANS

This would repeal the provision in the law allowing some nations to stretch out their FMS loan repayment periods from 12 to 30 years. This provision eases the short-term debt burden of our allies—but increases their long-term debt burden significantly since paying off a loan over 30 years is several times more costly than over 12 years—even with inflated dollars. Also, since most military equipment doesn't last 30 years, it must be replaced during the term of the loan—often with new 30-year loans. Thus, those countries accepting such loans are faced with a kind of double jeopardy—a larger long-term debt burden and an accelerating debt spiral feeding upon itself as new loans are added to old before the old are paid off. Already some countries are repaying more per year on old FMS loans than they are receiving from new ones. As this program, which is comparatively new, expands, this situation can only worsen.

B. INTRODUCE TRUTH-IN-LENDING INTO OUR FMS PROGRAMS BY REPEALING THE CONCESSIONAL LOAN PROGRAM

This program allows nations to pay as little as 5 percent interest on their 12 year FMS loans. I obviously do not quarrel with the objective of this program, which is to ease the debt burdens of our friends. I quarrel only with the fact that we use this device to hide what is in fact a grant component, approximately 30 percent, in this program. That is, a 5-percent loan over 12 years will have a repayment 30 percent lower than a 12-percent loan over the same period—12 percent being the current Treasury rate on normal FMS loans. Since the taxpayer makes up the difference by having the Treasury subsidize it, the difference is a grant. We should admit this openly by abolishing this program and giving the aid recipients in question 30 percent more in grant MAP funds and the remaining 70 percent of the agreed aid level in Treasury rate 12-year loans. This would not affect the buying power of recipient countries and would mandate approximately the same aggregate dollars in repayment to the United States.

A STREAMLINED SYSTEM WOULD BE MORE EFFICIENT

If implemented, these changes would mean that our Military Assistance Program would consist solely of 12 year FMS Treasury rate loans and MAP grants. In that way, if an aid recipient is able to repay loans at the market rate, it should be granted a 12-year loan—which is the usual 5-year grace period. If its economy cannot manage yet another debt, we should offer aid as a MAP grant. If it falls in between, we should combine FMS loans and MAP grants according to the same criteria.

The overall aid levels would not be changed under this proposal. They would simply be implemented in a fairer and more honest way and would not add to the debt burdens of our allies and friends.

These changes would also ease the current problem with appeals from our allies for more favorable terms on military assistance to match those their neighbors are receiving. Sound criteria for assistance would better rationalize the types of assistance different countries would receive. The proposals might also help pave the way for a more honest look at the relationship between military assistance and base rights overseas. I for one do not believe there should be such a relationship. But as long as we have one, we should know on what basis it relates to our military assistance programs.

NEED FOR AN ADMINISTRATION/CONGRESSIONAL CONSENSUS ON REFORM

During his September 30 testimony, Dr. Schneider stated that the administration has used the devices in force because the Congress has been reluctant to use other means to achieve the objective of reducing our allies' debt burdens. He stated that until a new consensus is reached with the Congress, the administration prefers to stay with the current approach for fear of getting something worse.

The September 30 hearing, the administration's November report, and the foreign assistance authorization and appropriation bills all contain important elements of just such a consensus on the nature of the military fi-

nancing problem and the outlines of a solution.

The appropriate time to implement programmatic changes and solutions is early in the next session during consideration of the foreign assistance authorization bill. By that time the administration will have presented its proposed program and the relevant committees can make changes to assure an improved, refined Military Assistance Program.

FUNDAMENTAL PRINCIPLES FOR REFORM SHOULD BE AGREED TO NOW

However, I believe it would be worthwhile to take some action now to gain agreement on the principles which should guide those deliberations based on this consensus. This is why I am proposing this amendment.

It expresses the Sense of the Congress in support of major reforms in our military assistance programs along the lines of this emerging consensus. I believe that it is in our interest and that of our allies that their military security not be strengthened at the expense of their economic health. Reforms along the lines I have proposed will do so. And I am fully committed to doing all I can to assure the achievement of these objectives. Having the commitment of the Congress to the fundamental principles involved, through passage of this amendment, will be an important step in paving the way to assure that we do achieve those objectives. For all these reasons, I urge an overwhelming vote of support for my amendment.

Mr. President, I ask unanimous consent that the document to which I referred to be printed in the RECORD.

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

30-YEAR EXTENDED REPAYMENT LOANS: PROPOSED REFORM

Senator Murkowski's proposal would repeal the provision in the Arms Export Control Act permitting FMS loan recipients to stretch their repayments from 12 to 30 years.

While granting a country the right to repay an FMS loan over thirty years with a ten year interest-only grace period may seem like a generous act, in fact, it is a false economy for us and a debt time-bomb for that nation.

The reason is two-fold. First, many military hardware items will not last the thirty year term of the loan, and thus must be replaced two or even three times during that period—with new loans! These in turn added new debt to old debt. The second reason is that, as shown in the attached chart, thirty year loans are, by definition, more costly in the long term than a shorter term loan.

For example: If a country bought a $50,000 military truck with a ten year life in year 1, it would have to buy two more (in years 11 and 21) to keep the same capability. Let's say the second and third trucks cost $60,000 and $70,000 respectively. If these trucks are financed by 30 year extended repayment FMS loans (with a ten-year grace period), the country will have paid us some $440,00 by year 30, it will still owe us some $280,000, and in year 31 it will once again have to finance a new truck since the other three are no longer usable.

Contrast this with doing the same transactions with the normal FMS 12 year market rate loans (with a generous 5 year interest-only grace period). Over the same 30 year period, the nation would have paid back some $287,000 ($157,000 less) and it would still owe $105,000 ($175,000 less).

Multiply this example by the hundreds now in effect and by the $1 billion proposed for extended repayment in FY 86, and it becomes clear that this program only exacerbates needlessly the debt problems of our allies and friends.

The inevitable result, unless this program is re-structured or abolished, is the situation we face today (and will face for the indefinite future), where re-payment levels of old loans for countries scheduled to receive these loans are 50% or more (in one case 101%!) of the new loans proposed for FY 86.

Some examples:

[In millions of dollars]

Country	Fiscal year 1986 FMS	
	Proposed	Repayments
Greece	500	234
Turkey	560	406
Korea	228	231
Spain	400	291

The situation, already out of hand in countries like Korea, where they are paying us back more than we are loaning them, can only worsen, as payments from our left hand to our right hand increase.

CONCESSIONAL LOANS: PROPOSED REFORM

Senator Murkowski's proposal would repeal the concessional loan program. It would replace that program with a different formula to achieve the same objective, but more honestly.

The proposal would re-appropriate the funds voted for concessional (5 percent rate, 12 years, 5 year grace period) FMS loans at an approximate ratio of 70 percent in 12 year treasury rate FMS loans and 30 percent in MAP grants or FMS forgiven credits. This formula is based on the difference in payback between this rate and the current treasury rate on such loans, approximately 12 percent. (The ratio would, of course, change as the treasury rate changed).

The purpose of this change is to implement a more honest and straighforward military assistance policy. Since the U.S. Treasury, i.e. the U.S. taxpayer, must pay the 30 percent subsidy component in concessional loans, that amount is a grant. If so, we should call a grant a grant and give the recipient countries 30 percent of the agreed funding level as a MAP grant or FMS forgiven credit and 70 percent as a straightforward treasury rate FMS loan.

For example:

Given a $100 million loan with a 12-year payback schedule:

At a 5 percent concessional interest rate, a nation would pay back approximately $133 million over 12 years;

At a 12-percent rate, the nation would pay back approximately $189 million.

In this example, the difference in payback is $66 million, approximately 30 percent of the $189 million figure. The Treasury has to make up the difference, which is therefore a grant from the U.S. government.

Mr. MURKOWSKI. Mr. President, the amendment I have proposed is an attempt to provide the Congress with a firm foundation of principles for reforms in our foreign military assistance programs.

The amendment reflects an emerging consensus in the Congress and the administration on the need for simplification, greater attention to the debt problems of our allies, and a more coherent approach to these programs.

Mr. President, I understand that my amendment is acceptable to both sides.

Mr. JOHNSTON. Mr. President, we have not seen a copy of the amendment. Until we see a copy, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. JOHNSTON. Mr. President, the amendment is agreeable with the minority.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 1356) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1357

(Purpose: To authorize the President to deny most-favored-nation trade treatment to Afghanistan)

Mr. HUMPHREY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Hampshire [Mr. HUMPHREY], for himself and Mr. KASTEN, proposes an amendment numbered 1357.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the joint resolution, add the following:

SEC. . (a) Notwithstanding any other provision of law, the President is authorized—

(1) to deny nondiscriminatory (most-favored-nation) trade treatment to the products of Afghanistan and thereby cause such products to be subject to the rate of duty set forth in column number 2 of the Tariff Schedules of the United States, and

(2) to deny credit, credit guarantees, and investment guarantees to, or for the benefit of, Afghanistan under any Federal program.

(b) If the President has not denied nondiscriminatory trade treatment to the products of Afghanistan before the date that is 45 days after the date of enactment of this Act, the President shall submit to the Congress on such date a report which states the reasons why the President has not denied such treatment.

(c) Notwithstanding any other provision of law, if the President takes any action under subsection (a), the President is authorized to—

(1) restore nondiscriminatory trade treatment to the products of Afghanistan, and

(2) extend credit, credit guarantees, and investment guarantees to, or for the benefit of, Afghanistan under any Federal program.

only if the President provides written notice of such restoration or extension to the Congress at least 30 days prior to the date on which such restoration or extension takes effect.

(d) For purposes of this Act, the term "product of Afghanistan" means any article which is grown, produced, or manufactured (in whole or in part) in Afghanistan.

Mr. HUMPHREY. Mr. President, the amendment has been cleared with the managers on both sides, likewise with the chairman of the Foreign Relations Committee and the chairman and ranking member of the Finance Committee. Very briefly, this is an amendment that would withdraw most-favored-nation status from the Government of Afghanistan. It was drafted in cooperation with the State Department.

I ask unanimous consent that the letter of support from William L. Ball III, Assistant Secretary for Legislative and Intergovernmental Affairs, be printed in the RECORD.

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

U.S. DEPARTMENT OF STATE
Washington, DC, October 23, 1985.

Hon. GORDON J. HUMPHREY,
U.S. Senate.

DEAR SENATOR HUMPHREY: The Administration welcomes your recent draft legislation authorizing the President to discontinue Most Favored Nation (MFN) trade treatment for Afghanistan. The Administration, which has the authority to deny credits and credit guarantees to any country, has already discontinued the extension of credits to Afghanistan. We believe the bill's provisions on MFN are consistent with our overall policy toward the Kabul regime, and we stand ready to implement them as quickly as possible.

The Office of Management and Budget has advised that from the standpoint of the Administration's program, there is no objection to the submission of this letter.

Sincerely,

WILLIAM L. BALL III,
ASSISTANT SECRETARY
Legislative and Intergovernmental Affairs.

Mr. KASTEN. Mr. President, I ask unanimous consent to be named an original cosponsor of the amendment.

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

Mr. METZENBAUM. Mr. President, I do not rise to object to this amendment. I do rise to object to what is taking place on the floor of the Senate at the moment. We just had a resolution that was adopted—I did not object to it—from Senator MURKOWSKI. I do not have concerns about the thrust of what he was proposing and what was adopted. I do not have objection to the thrust of what Senator HUMPHREY is proposing.

I have just been handed another one that is coming down the pike along a somewhat similar line. It just seems to me that the managers of this bill have some responsibility to us in the Senate not to tie on to the continuing resolution a potpourri of proposals of all sorts, some of which have merit, but they do not belong on a continuing resolution. What you do is open the door for the rest of us who have various and sundry proposals to feel, well, if you can put this on and you put the Murkowski one on, you put something else that Senators ABDNOR and DECONCINI are about to propose, the door is open and why not come forward with anything and everything that we have been wanting to get through over a period of time.

It was my understanding that the managers of the bill had a continuing resolution they wanted to bring to a conclusion. As a matter of fact, we were told last Friday that they thought they would dispose of it by then. But every time you take one of these, you open the door and urge upon others that they might come to the floor also and bring up their pet resolution or their pet amendment.

That is not the way to run the Senate, and I do not think we should add to the continuing resolution anything and everything that comes down the pike. I do not address myself specifically to the proposal of the Senator from New Hampshire. I address myself generally and to the procedure.

Mr. HATFIELD. Mr. President, I certainly agree with the sentiments expressed by the Senator from Ohio. That battle has been fought many times by me, as chairman of the committee, and ranking members of the committee as well.

Tonight, we have tabled or we have created a point of order for five amendments that were legislation on appropriation. We had hoped that we might persuade others in the Senate from offering such matters, but I think we have to recognize that there are occasions which make it very difficult for the Appropriations Committee and the managers of appropriations bills to withstand amendments.

I remember when the Senator from Ohio, as a member of the Senate Judiciary Committee, requested the Appropriations Committee to adopt the crime bill, the entire comprehensive piece of legislation, as reported on the floor, at the request of the Judiciary Committee. We did not seek to do that.

We had the chairman of the Senate Appropriations Committee ask us to adopt the foreign assistance authorization bill, which had not moved through the legislative process.

I could go on and on with the various and sundry requests we have received from authorizing committees.

I say to the Senator that all this shows somewhat of a breakdown or some kind of difficulty that exists in the legislative action and activities of the Senate whereby the appropriations vehicle then becomes the court of last resort or the last effort Members can make.

We had the Senator from Massachusetts argue a case today. There were certain deadlines and dates and problems relating to Medicare. I do not know how the Senator from Ohio voted on that one, but I do know that there are some very legitimate ones that are raised from time to time, and an appropriations vehicle is the only vehicle by which they can move that important authorizing legislation.

I would like to see a total and complete elimination. It cannot be either/or.

The Senator from Ohio says he does not object to these particular ones in substance, but it is the wrong method. I agree. But the Senator from Ohio has a different selection of priorities from that of some other Senator who thinks it is perhaps not as important to put this on the appropriations bill as maybe something else.

So the Senator can be very critical about his colleagues in this situation. But I say to the Senator, with all due respect, that I think he has participated in this very action on things that are important to him. I have. We all have.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. HATFIELD. I yield.

Mr. METZENBAUM. Is the Senator certain that the Senator from Ohio added on the crime package? My recollection was that that was proposed by the distinguished Senator from South Carolina, and I believe it was the Senator from Massachusetts. They were the chairman and the ranking minority member of the Judiciary Committee at that time and authors of that legislation. I believe the Senator from Oregon indicated that the Senator from Ohio had come forward with that proposal. I believe the Senator is in error.

Mr. HATFIELD. The Senator was not listening correctly. I merely said the Senator, as a member of the Judiciary Committee. The committee leadership represented that as a matter of the Judiciary Committee which was

adopted by the Senate on an appropriation measure.

All I am saying is that I would like to keep all of them off, all these matters that are extraneous, nongermane, legislation on appropriation.

By the same token, the Senate has not chosen to make that a blanket observation. Each Senator has adopted his own set of priorities as to when it should and should not happen, and it is difficult for the managers of the bill to deal with 98 other sets of agendas and priorities.

Mr. METZENBAUM. I urge upon the Senator from Oregon that he do everything possible to keep the continuing resolution as clean as it can be, whether or not it comes from me or any other Senator. I think the Senate would operate a lot better.

Mr. HATFIELD. I thank the Senator. We have done it on five occasions.

Would the Senator care to make the RECORD for me? Did the Senator from Ohio support the motion to table the Kennedy amendment earlier?

Mr. METZENBAUM No; Regrettably, I voted the other way. But the fact is that I said to the Senator from Massachusetts at the time, "You are right on the issue, but you are wrong on the procedure."

Mr. HATFIELD. I thank the Senator for clarifying the RECORD with respect to that action which he now criticizes.

Mr. JOHNSTON. Mr. President, I support my chairman on the issue of trying to keep this bill as pure and pristine as we can, but that is not possible any longer. We have already accepted some extraneous matters.

Therefore, since we can no longer be pure, let me tell the Senator from Ohio what my judgment will be, and that is to keep as much of the bill pure as we can, especially the more important provisions. But if there are some worthy amendments, such as this amendment on Afghanistan, which is supported on both sides of the aisle by all the players involved, by my chairman and by all the rest of them, and if we can get it done without a long debate and without a rollcall vote, then the fastest way to do it is to accept it. If it turns out to be bad later, we can drop it in conference. This is one that I hope will not be dropped in conference.

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

Mr. JOHNSTON. I yield.

Mr. LONG. I say to my distinguished colleague—and anyone else—that I have been supporting the Chair. It seems to me that when the Chair does its duty, on the advice of the Parliamentarian, we should uphold the Chair. I am going to continue to support the Chair, no matter what someone else tells me about this matter.

It is easy for me to explain my position as long as I am consistent. If it comes to a rollcall vote, I will vote to sustain the Chair.

I can understand how things can be added to a bill where there is no objection, where everybody feels that way. Generally speaking, I hope that the committee will remain consistent. In that way we can avoid voting on the same thing 50 times and get on with the business of the Senate.

Mr. JOHNSTON. Mr. President, my colleague makes a very good point, and I hope Senators will take that to heart.

Let me say one more thing, because we want to get back into a fast cadence on this whole thing and finish it, not late tonight but early tonight.

If I sense the tempo in this body, we are now on what I would call the short strokes—that is, some would call them cats and dogs amendments. I would not call them that. I would call them the small matters that are not terribly controversial, save one broad matter, and that is the defense matter.

I think what we will try to do is finish the bill, other than defense, if we can, and then get unanimous consent that nothing else is in order.

So I urge all Senators who have amendments to bring them up now. I urge my friend from Ohio, if he can, to be on the floor, because we have a lot of small amendments now. I think most of them can be dealt with without a rollcall vote and they are noncontroversial.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1357) was agreed to.

Mr. HUMPHREY. I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, the Senator from Louisiana, the comanager of the bill, has indicated that we are at that point where I think we have basically concluded the controversial amendments, with one exception, and that has to do with a matter that is now in discussion between the Armed Services Committee and the Appropriations Subcommittee on Defense. If the matter can be resolved—and I think it is down to about basically one question—we could conceivably even take that up and settle it tonight by such an agreement.

I am not optimistic enough to believe that we can accomplish that tonight, but I should like to put the Senate on notice that it would be our desire to complete all amendments that Senators have to offer, with the exception of the one I just referred to, relating to the armed services question, and then to seek a unanimous-consent agreement to make that the only amendment in order to be taken up tomorrow hopefully under a time agreement that could be worked out and thereby have the continuing resolution completed with that one exception and hopefully with the unanimous-consent agreement on dealing with it for tomorrow. That would be our exception at this time, at 6:20 p.m.

I urge also Senators to appear on the floor because if we reach the point where that becomes then the only unfinished business, we will propound that kind of unanimous consent request.

AMENDMENT NO. 1358

(Purpose: To provide loan authority to the Secretary of Energy from the Alcohol Fuels Loan Guarantee Reserve)

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] on behalf of Mr. LUGAR and Mr. QUAYLE] proposes an amendment numbered 1358.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At an appropriate place in the bill, insert the following:

Of the funds available from the Energy Security Reserve to the Secretary of Energy for Alcohol fuel loan guarantees under Public Law 96-304, as amended by Public Laws 96-514, 97-12 and 97-394, the Secretary shall provide a loan for odor abatement at an ethanol producing facility that has received financial assistance under title II of Public Law 96-294 and that was in operation on November 1, 1985: *Provided*, that—

(1) such loan shall not exceed 90 percent of the net cost of the odor abatement project and in no case shall the amount of such loan exceed $3 million,

(2) the Secretary shall not provide such loan until the Secretary has received satisfactory assurances that a nonfederal share in the amount of 10% of the net cost of the odor abatement project is available,

(3) payment of principal under the loan shall not be due until the repayment in full of permanent financing guaranteed by the Department of Energy for the construction of such ethanol producing facility,

(4) interest shall accrue immediately upon receipt of the loan and payment of interest shall be made at regular intervals established by the Secretary and at such rate as determined by the Secretary but not to exceed the current average rate of outstanding marketable obligations of the United States with comparable maturities,

(5) the Secretary shall not make such loan until the Secretary has received satisfactory assurances that any expenses of operating equipment installed using funds made available under this loan shall be paid by the New Energy Corporation of Indiana,

(6) principal and interest payments made under this loan shall be repaid into the Alcohol Fuels Loan Guarantee Reserve, and

(7) the Secretary shall establish such other terms and conditions as the Secretary considers appropriate.

Mr. McCLURE. Mr. President, I send this amendment to the desk on behalf of myself and Senators LUGAR and QUALYE.

Mr. LUGAR. Mr. President, the amendment which Senator QUAYLE and I are proposing would authorize a loan from funds available in the Alcohol Fuels Loan Guarantee Reserve to install a closed loop odor control system on the New Energy plant in South Bend, IN. The amendment requires that this be accomplished only on a cost sharing basis with other non-Federal interests.

The New Energy plant is the recipient of a $126.9 million loan guarantee from the Department of Energy. The plant is operating successfully, benefiting the local economy, increasing our domestic supply of energy, helping refiners to meet EPA lead phasedown regulations, and reducing agricultural expenditures through its favorable impact on corn prices and on crop surpluses.

The usually unpleasant odor which the plant has produced was unanticipated and has caused a very significant adverse public reaction in South Bend. A citizens group has filed suit under Indiana's nuisance law. The air pollution control board of the State of Indiana has ordered New Energy to submit within 120 days a plan for ending the South Bend ethanol odor problem.

Fortunately, a solution to this problem exists which is now under technical review by the Department of Energy. At a cost of approximately $3 million, a closed loop odor control system could be installed on the South Bend plant to eliminate this odor. While it would be preferable for the company to solve this problem on its own, this is unfortunately not possible. Donna Fitzpatrick, the assistant secretary of energy for renewable fuels, has informed me that she could not allow the company to borrow any money because it is not financially strong enough to support more debt.

It is appropriate for the Federal Government to help contribute to a solution to this problem on a cost sharing basis with non-Federal interests. Its loan guarantee is seriously threatened by the possibility that the plant will no longer be able to operate. The closed loop odor control system to be demonstrated could be made available to other alcohol fuels facilities with similar problems. All moneys loaned from alcohol Fuels Loan Guarantee Reserve would be repaid at an interest rate and on a time schedule to be determined by the Secretary of Energy.

Mr. QUAYLE. Mr. President, I am pleased to join my colleague, Senator LUGAR, in offering this amendment to make funds available in the form of a loan to the New Energy Corp. of South Bend, IN, for the purpose of installing an odor abatement system. This amendment requires that the loan not exceed $3 million and is contingent on assurances that the 10 percent non-Federal share of the cost of the project is available. It is important to note that this funding is not new money and will not add to our budget deficit.

The New Energy plant represents a successful public-private partnership and was constructed with the commitment of $126.9 million in loan guarantees by the Department of Energy. The plant has been in operation since October 1984, exceeding projections in both production and efficiency. Unfortunately, the plant has produced an unanticipated odor which has precipitated a strong objection by community residents.

While New Energy has met all environmental requirements, it is not in a financial position to install the odor abatement system on its own. However, the Department of Energy has advised us of their interest in this amendment granting authority to make funds available from the Alcohol Fuels Loan Guarantee Reserve. These funds would necessarily be repaid at an interest rate and time schedule set forth by the Secretary of Energy. DOE has also advised us that the odor control system which would be demonstrated at the New Energy plant, may be a prototype for other ethanol plants constructed with Federal loan guarantees.

I wish to express my appreciation to Senator McCLURE, chairman of the Senate Appropriations Subcommittee on the Interior for his willingness to address the odor abatement problem at the New Energy plant and his agreement with this proposed solution. This loan will allow New Energy to continue in the vital task of providing energy from indigenous resources at a reasonable cost. Both the American people and the people of northern Indiana will benefit from the timely resolution of an unanticipated problem. I urge the adoption of this amendment.

Mr. McCLURE. Mr. President, we have a situation where an alcohol fuels plant under an energy program of the country that can participate in guaranteed Federal loans has been constructed in South Bend, IN. Unfortunately, this plant was designed without odor abatement and it is a slightly different technology than has been used before and a much larger plant than has been constructed before. The combination of the two events has caused an odor problem that has erupted into a political issue and into lawsuits in South Bend.

I think had this condition been known in advance the odor abatement would have been designed into the plant and would have been a part of the original loan and loan guarantee, and there would be no problem.

That is often the case with emerging or new technologies that we run into problems that were not anticipated at the appropriate time.

This amendment would simply provide that an additional $3 million loan could be made to be wrapped around the original loan requiring the sponsors to pay the interest on the loan to come up with at least 10 percent of the money in cash, to repay the loan at the end of the other loan and to pay all of the additional operation and maintenance that might be required as a result of the installation of the odor abatement loop that would be installed in the plant.

Mr. President, I do not know of any controversy concerning this particular amendment, although I confess that it has sprung on us rather quickly, and I would hope that this procedure could be followed here so that we can avoid the very real problems that are confronted now by this loan.

I would say to the Senate that it is my belief that if the loan is not made and the odor abatement equipment cannot be installed there is a very great risk—I cannot tell you that I know—but a very great risk that the plant will be abated either by the air quality control board of the State of Indiana or by the nuisance suits that has been brought by some of the residents who are affected by it and the $126 million loan which the Federal Government now guarantees could indeed be placed in jeopardy. It seems to me to be foolish to jeopardize $126 million because we were unwilling to advance an additional $3 million.

I hope the amendment will be agreed to by the Senate.

THE PRESIDING OFFICER. Is there further debate?

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

THE PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MR. JOHNSTON. Mr. President, we have no objection to the amendment.

MR. METZENBAUM. Mr. President, I am going to withhold my vote in connection with this issue and if I need unanimous consent, I will ask for it.

The owner, the head of this company, is a former top staffer of mine. Althought I have no business involvement with it, and I have no actual conflict of interest, I feel some embarrassment about it and therefore I will withhold my vote.

Mr. HATFIELD. Will the Senator use the microphone? I cannot hear it.

Mr. METZENBAUM. Mr. President, I intend to withhold my vote in connection with this issue. Although I have no conflict of interest and have no financial interest in the particular company involved, the head of the company is a former top staffer of mine who worked here in the Senate with me and I feel some sense of embarrassment in voting on a matter of this kind. Therefore, I intend to withhold my vote.

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

If there be no further debate, the question is on agreeing to the amendment of the Senator from Idaho.

The amendment (No. 1358) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RESTORATION OF FUNDING FOR THE ANADROMOUS FISH HABITAT PROGRAM IN ALASKA

Mr. STEVENS. Mr. President, the committee has recommended an appropriation of $9,537,000 for wildlife, range, and fish habitat research for the Forest Service. How will this affect the anadromous fish habitat research currently being conducted in Alaska?

Mr. McCLURE. This appropriation will restore funding for the Anadromous Fish Research Program in Alaska to its fiscal year 1985 funding level. The biologist positions and the operating budget will remain intact for the Forest Service lab in Juneau. The committee intends that the Forest Service assign high priority to the maintenance of the Juneau program.

FUNDS APPROPRIATED FOR ILLINOIS STUDY ON MINING SUBSIDENCE

Mr. DIXON. Mr. President, in the 1985 continuing resolution, $400,000 was allocated to the Bureau of Mines to conduct a study on the effects of mining subsidence on prime farmland in Illinois. This project is a multiyear study and needs funding for a number of years in order to be completed. I would like to ask a clarifying question regarding the funds appropriated in the fiscal year 1986 budget concerning this study.

Mr. McCLURE. Yes, please raise it.

Mr. DIXON. It is my understanding that the President's request for fiscal year 1986 includes $900,000 for the Bureau of Mines to study subsidence. Of this amount, approximately $325,000 would be earmarked for the Illinois subsidence study. Is this correct?

Mr. McCLURE. Yes, it is. In the past, approximately one-third of the funds appropriated for subsidence have been spent on the Illinois study. The Interior Subcommittee intends that this division be continued and $325,000 of the $900,000 would go to Illinois subsidence.

Mr. DIXON. It is further my understanding that the House and Senate both added $500,000 to the President's request for $900,000 to apply Appalachian mining subsidence technology. This would bring the total budget for subsidence to $1.4 million. Of this $1.4 million, $625,000 would be spent on the Illinois subsidence study. Is this also your understanding?

Mr. McCLURE. Yes, it is. The addition of $500,000 would bring the Bureau's budget for subsidence activity to $1.4 million. According to the distribution pattern of the past, this would mean around $625,000 could be made available for Illinois subsidence work.

Mr. DIXON. I thank the Senator for explaining the intended use of the funds to be allocated for the Illinois subsidence study.

AMENDMENT NO. 1359

Mr. McCLURE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE] proposes an amendment numbered 1359.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end insert: "Notwithstanding any other provisions of this Joint Resolution, strike the following beginning on line 11, page 32 through line 13, page 32 of H.R. 3011;

", at an interest rate of 4 per centum, to be repaid within a period of twelve years"

Mr. McCLURE. Mr. President, there was an inadvertent drafting error in one provision that deals with a provision on the payment of interest rates. This amendment would strike that provision so that it would be subject to negotiation by the Secretary. I know of no objection to the amendment.

Mr. JOHNSTON. Mr. President, we have no objection to the amendment.

Mr. METZENBAUM. Mr. President, will the Senator from Idaho yield for a question?

Mr. McCLURE. I am happy to yield.

Mr. METZENBAUM. As I understand it, this has to do with an airport loan. The law presently provides that it is to be at a rate of 4 percent.

Mr. McCLURE. If the Senator will yield, the House placed in a provision for the 4-percent interest rate. What we do is eliminate that provision for a mandated interest rate and permit the Secretary to negotiate on the interest rate.

Mr. METZENBAUM. I thank the Senator from Idaho.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Idaho [Mr. McCLURE].

The amendment (No. 1359) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SIMPSON. Mr. President, many of our colleagues on both sides of the aisle have asked about the schedule for this evening. I want to assure my colleagues that, when we had our quality of life discussion the other day, we were not talking about Mondays in this calendar year. We were talking about the year 1986. You can see that that is quite correct, because we are doing our work tonight. I wish it were not so.

Nevertheless, the chairman of the Appropriations Committee and the ranking member advise—and I have not had the opportunity to visit with the minority leader—but I believe I must advise my colleagues that there is every prospect of further rollcall votes or a vote tonight. We are working toward resolving this matter. The chairman of the Appropriations Committee has described very carefully where we are with this issue and why we need to do it and the prospect of how these amendments will stay on the measure.

So I would just say there is a prospect of further rollcall votes or perhaps one, at least. We could have something more to report to the minority leader in another half-hour, I believe. I regret that.

Mr. BYRD. I thank the distinguished Senator.

AMENDMENT NO. 1360

(Purpose: To provide an appropriation for the Integrated Flood Observing and Warning System)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for himself and Mr. TRIBLE, proposes an amendment numbered 1360.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the joint resolution add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, there is appropriated an additional $3,000,000 to remain available until expended, for the National Oceanic and Atmospheric Administration for programs, projects, and activities for the integrated flood observing and warning system [Iflows].

Mr. BYRD. Mr. President, flash floods—torrents that rip through mountain hollows after sudden, heavy rainfalls—are the leading weather-related cause of death in the United States, according to the National Weather Service [NWS].

To combat the devastating effects of such floods, the NWS, an arm of the National Oceanic and Atmospheric Administration, has embarked upon a pilot project that links automated instruments at remote sites in West Virginia and surrounding States to sophisticated central computers with the purpose of assuring lifesaving early warnings of gathering floods in central Appalachia. This prototype flash-flood warning system is called the Integrated Flood Observing and Warning System [IFLOWS]. It was established in 1980, in a 12-county area along the boundaries of West Virginia, Kentucky, and Virginia. The IFLOWS Program was subsequently expanded to other flash-flood counties in these three States, as well as Pennsylvania, Tennessee, and North Carolina. The current goal is to complete IFLOWS within approximately 120 counties in 1987.

Mr. President, I have been a supporter of the IFLOWS project since its inception in 1980. Earlier this year, the Senate Appropriations Committee, at my request, included language in the report accompanying the fiscal year 1986 Commerce, Justice, State, the Judiciary, and Related Agencies appropriation bill, urging the Weather Service to give a high priority to completion of the IFLOWS project, inasmuch as it offered important potential for mitigating flood damage.

Last month, a major rain storm moved up the eastern seaboard of the United States, setting the stage for the worst flood disaster in West Virginia's history. At least 15,000 people were forced from their homes in West Virginia and Virginia, more than 60 people were killed, and the economic loss will probably exceed $1 billion.

The heaviest rain, which produced the catastrophic November floods, fell over areas not instrumented by IFLOWS.

The purpose of my amendment is to provide $3 million to accelerate the implementation of the current Iflows flash flood warning system. Further, it would expand the program into the counties declared as disaster areas during the recent floods in West Virginia and the surrounding States. For example, such expansion would involve 29 additional counties in West Virginia, 12 in Virginia, and 16 in Pennsylvania. Several counties in North Carolina and New York are also in need of coverage.

In summary, the proven Iflows prototype technology could have saved considerable life and property if it had been in place in the areas of West Virginia, Virginia, and Pennsylvania hit by devastating floods this November. The purpose of this amendment is to provide for accelerated Iflows implementation in West Virginia and the surrounding States, and expansion into those areas devastated by the recent floods.

I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side of the aisle.

Mr. MATHIAS. Mr. President, I strongly support the amendment of the Senator from West Virginia.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the amendment of the Senator from West Virginia [Mr. BYRD].

The amendment (No. 1360) was agreed to.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. I thank both the manager and the ranking minority member of the bill for their favorable consideration.

Mr. JOHNSTON. Mr. President, I believe the distinguished Senator from Virginia [Mr. TRIBLE] has an amendment which we are prepared to clear on this side of the aisle.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO 1361

Mr. ABDNOR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. ABDNOR], for himself and Mr. DECONCINI, proposes an amendment numbered 1361.

Mr. ABDNOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

On page 49, after line 9 add the following new section:

SEC. . None of the funds appropriated by this Act or any other Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with 27 U.S.C., Section 205 (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

Mr. ABDNOR. Mr. President, I believe this amendment has been cleared on both sides.

Mr. President, the Congress in 1937 enacted the Federal Alcohol Administration Act which, among other provisions to protect the alcohol beverage consumer of this country, provides that the Department of the Treasury shall provide, through regulation, labeling of all spirits, wine and malt beverages. For almost 50 years, the Treasury Department has implemented this statutory requirement by approving—before marketing—all such labels.

It is a simple procedure and not one which should be cast aside as a part of a notable and worthwhile program of paperwork reduction of the Office of Management and Budget. There are too many legitimate opportunities to understate or otherwise mislead consumers if we do not continue to demand the information now required by ATF's application for certificate of label approval, form 1649, which is the bulwark of consumer protection for alcohol beverage content in the United States.

All this amendment does is to require the Treasury Department to continue to issue certificates of label approval for all alcohol beverage products, including imports.

I urge adoption of the amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, will the distinguished Senator from South Dakota yield for a question?

Mr. ABDNOR. Yes.

Mr. METZENBAUM. There is a pending issue at the BATF having to

do with the matter of sulfites in connection with liquor and whether or not the appropriate labeling is provided for those sulfites. It is my understanding that the Bureau has been moving in that direction in connection with this subject, and I am curious to know whether or not the Senator's amendment has any relevance whatsoever to the entire question of labeling the sulfite content pertaining to alcoholic beverages.

Mr. ABDNOR. I happy to respond to my friend, the Senator from Ohio, by saying in no way does it. It does not. It simply is a certificate of application for production. There is other consideration to be given in this area. But this in no way affects that.

Mr. METZENBAUM. It in no way affects the sulfites.

Mr. ABDNOR. No. I can assure the Senator of that.

Mr. METZENBAUM. If it should be discovered at some point that the language does cover that issue, do we have assurance of the Senator from South Dakota that he would provide the leadership in undoing that which would be accomplished by this amendment?

Mr. ABDNOR. It is properly reported back to the Senate for study now, and is under consideration. This was simply taking the control and regulation for improperly producing alcohol. This is a protection to the public and a regulation. Industry does not want to regulate it. This in no way goes into the sulfite end of it, but when and if the time comes and ample justification is put forth, we certainly will go along with it. Yes.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. JOHNSTON. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from South Dakota.

The amendment (No. 1361) was agreed to.

Mr. ABDNOR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1362

(Purpose: To reform the Residential Conservation Service and reduce Federal energy costs)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk, which is unprinted, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself and Mr. TRIBLE, proposes an amendment numbered 1362.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the joint resolution insert the following:

SEC. . (a) This section may be cited as the "Conservation Service Reform Act of 1985".

(b)(1) Title VII of the National Energy Conservation Policy Act (relating to energy conservation for commercial buildings and multifamily dwellings) is hereby repealed.

(2) The table of contents for such Act is amended by striking out the items relating to title VII.

(3) Notwithstanding paragraph (1) any State energy conservation plan for commercial buildings and multifamily dwellings approved under section 721 of the National Energy Conservation Policy Act prior to August 1, 1984, may with respect to regulated utilities, continue in effect until one year after the date of enactment of this subsection if such plan meets the requirements of section 722 of such Act as in effect on August 1, 1984.

(c)(1) Sections 215(a), 215(d), and 217(a)(1) of the National Energy Conservation Policy Act (relating to utility programs and home heating supplier programs) are amended by striking out "January 1, 1985" each place it appears and inserting in lieu thereof "January 1, 1988".

(2) The Comptroller General shall prepare and transmit to Congress before June 30, 1986 a report evaluating the utility and home heating supplier programs of the Residential Conservation Service implemented under part 1 of title II of the National Energy Conservation Policy Act. The Secretary of Energy shall conduct a survey in consultation with the Comptroller General to collect the information the Comptroller General determines is necessary for the preparation of such report. The report shall examine and assess, for the programs under this part—

(A) the potential for achievable energy savings through implementation of residential energy conservation measures in residential dwellings in the United States and the importance of the Residential Conservation Service in achieving these savings;

(B) Residential Conservation Service Program costs from a representative sample of States, taking into account costs to the taxpayer and ratepayers of affected utilities;

(C) Residential Conservation Service Program benefits from a representative sample of States, taking into account the value of energy conservation and the value of deferral of investment in new capacity to provide energy;

(D) efforts of utilities to encourage the implementation of residential energy efficiency measures by their customers and the relationship between these efforts and the observed response rate under Residential Conservation Service Programs;

(E) measured energy savings achieved in residential dwellings in which measures are installed under such programs;

(F) to the extent to which utilities have adopted programs voluntarily or under State law that offer more promise in encouraging energy efficiency than has been the case under the Residential Conservation Service;

(G) to the extent to which modifications in the regulations implementing the Residential Conservation Service could improve the cost effectiveness of the program;

(H) legislative changes that are necessary to improve the cost effectiveness of the program;

(I) the extent of unfair, deceptive or anticompetitive acts or practices affecting commerce that relate to the implementation of such residential energy conservation programs, and the adequacy of procedures which are in effect to prevent such unfair, deceptive or anticompetitive acts or practices; and

(J) such other matters as seem appropriate in order to assist Congress in deciding the future of the Residential Conservation Service.

(3) The provisions of part 1 of title II of the National Energy Conservation Policy Act shall expire on January 1, 1988, but such expiration shall not affect any action or pending proceeding not finally determined on such date of expiration nor any action or proceeding based upon such act committed prior to such date of expiration.

(d) Section 218(a) of the National Energy Conservation Policy Act is amended by striking the last sentence thereof and inserting "Such temporary exemption may be granted or renewed until such date as determined by the Secretary.".

(e)(1) Part 1 of title II of the National Energy Conservation Policy Act (42 U.S.C. 8211 et seq.) is amended by adding at the end thereof the following:

"SEC. 226. WAIVER FOR REGULATED AND NONREGULATED UTILITIES.

"(a) WAIVER.—Any utility subject to this part may, upon request, receive a waiver from the Secretary from any provision of this part or from any provision of a State residential energy conservation plan under this part if the utility shows in appropriate State proceedings and the appropriate State officials find that—

"(1) the existing and planned residential energy conservation programs that will be implemented by the utility if a waiver from such provision is approved will result in savings in petroleum, natural gas or electric energy consumed in residential buildings served by the utility that are equal to or greater than the savings that would be achieved if the utility were subject to the provision; and

"(2) adequate procedures are in effect that prevent unfair, deceptive or anticompetitive acts or practices affecting commerce that relate to the implementation of such residential energy conservation programs, including provisions to assure that any person who alleges any injury resulting from unfair, deceptive or anticompetitive acts or practices in connection with such programs shall be entitled to redress under such procedures as may be established by the Governor in the State in which the utility provides utility service.

"(b) DEFINITION.—For purposes of this section the term 'residential energy conservation program' means any program carried out by a utility that has as its purpose—

"(1) increasing the efficiency with which petroleum, natural gas or electric energy is consumed in residential buildings served by such utility; or

"(2) utilizing solar or other forms of renewable energy in residential buildings served by such utility.

"(c) APPROVAL.—The Secretary shall approve a request of a utility for a waiver under subsection (a) if the Secretary determines that—

"(1) opportunity for a hearing on the request for a waiver has been provided in the State in which the utility provides utility service; and

"(2) in the case of a regulated utility, the Governor of the State in which the utility provides utility service and the State regulatory authority that has ratemaking authority with respect to such utility both—

"(A) find that the showings under subsection (a) (1) and (2) are sufficient; and

"(B) support the request by the utility for the waiver; or

"(3) in the case of a nonregulated utility subject to a State residential energy conservation plan under section 212(c)(2), the Governor of the State in which the utility provides utility service—

"(A) finds that the showings under subsections (a) (1) and (2) are sufficient; and

"(B) supports the request by the utility for the waiver.

"(d) ANNUAL REVIEW AND REVOCATION OF WAIVER.—(1) The provisions of this subsection do not apply to a nonregulated utility unless such utility is subject to a State residential energy conservation plan under section 212(c)(2).

"(2) Any utility that receives a waiver under this section shall provide the Governor of the State in which that utility provides utility service with an annual report describing the performance of its residential energy conservation programs in relation to the showings of such utility under subsections (a) (1) and (2).

"(3) The Secretary shall revoke any waiver received by a utility under this section upon a request under this subsection by the Governor of the State in which the utility provides utility service. Such a request shall be made upon a finding—

"(A) in the case of a regulated utility, by such Governor with the concurrence of the State regulatory authority that has ratemaking authority with respect to such utility; or

"(B) in the case of a nonregulated utility subject to a State residential energy conservation plan under section 212(c)(2), by such Governor, that the savings described in subsection (a)(1) on an annual basis are less than the savings in the year prior to the approval of the waiver or that the procedures referred to in subsection (a)(2) are no longer adequate.

"(4) A request under paragraph (3) with respect to any utility may be submitted to the Secretary by a Governor only after review and opportunity for a hearing on the performance of the residential energy conservation programs of such utility. In order to facilitate such review and hearing, the utility shall provide to the Governor such information as the Governor requests about such residential energy conservation programs.".

(2) The table of contents for the National Energy Conservation Policy Act is amended by adding at the end of the table of contents for part 1 of title II the following:

"Sec. 226. Waiver for regulated and nonregulated utilities.".

(f) Subsection 220(b) of title II of the National Energy Conservation Policy Act (42 U.S.C. 8211 et seq.) is amended by inserting after "ACTS.—", "(1)", and by inserting after the words "acts or practices.", the following new paragraph:

"(2) Nothing in this part shall be construed to—

"(A) bar any person from taking an action with respect to any anticompetitive act or practice related to activities conducted under any program established under this part, including activities conducted under subsection 216(b), (c), (d), or (e); or

"(B) convey to any person immunity from civil or criminal liability, create defenses to actions under antitrust laws, or modify or abridge any private right of action under such laws.".

(g)(1) Part 3 of title V of the National Energy Conservation Policy Act (Public Law 95-619) is amended by adding at the end thereof the following new section:

"SEC. 552. Energey Savings Contracts.

"(a) ENERGY SAVINGS CONTRACTS.—Notwithstanding any other law, the head of a Federal agency may contract for energy savings for periods of not more than 25 years and shall provide in these contracts that the contractor shall incur the initial cost, or a portion of the cost, of implementing energy savings measures in exchange for a share of any energy savings resulting from such implementation. As used in this section 'energy savings', means a reduction in the energy consumption or in the energy-related costs of an existing building or community of buildings caused by lease or purchase of equipment, supplies, or improvements; altered operation and maintenance; technical services; or other means or the increased efficient use of existing energy sources by cogeneration, heat recovery, or other means.

"(b) COSTS OF CONTRACTS.—The costs of contracts authorized under this section for any year may be paid from monies made available to the agency for utilities costs and related operations and maintenance costs.

"(c) CONTRACTS NOT CONTINUED.—In the event funds are not made available for the continuance of a contract authorized by this section for a subsequent fiscal year, the contract shall be cancelled or terminated and the costs of cancellation or termination may be paid from—

"(1) funds appropriated for the performance of the contract concerned;

"(2) appropriated funds otherwise available for the payment of these costs; or

"(3) funds appropriated for these costs.

"(d) SECRETARY'S ANNUAL REPORT.—The Secretary's annual report under section 550 and the information each Federal agency is required to furnish to the Secretary under section 550 shall include—

"(1) a description of the progress made by each Federal agency in conforming its regulations to this section to permit contracts for energy savings, and

"(2) a description of each Federal agency's progress in the use of such contracts.".

(2) Section 101(b) of the National Energy Conservation Policy Act (the table of contents) is amended by adding at the end of the table of sections for part 3 of title V the following new item:

"Sec. 552. Energy savings contracts.".

Mr. GRASSLEY. Mr. President, I would like to offer an amendment for myself and Mr. TRIBLE that I understand has been cleared on both sides of the aisle. This amendment is essentially the text of two provisions which have already passed the Senate.

This bill is identical to S. 410 which passed the Senate unanimously on July 29 and would extend and reform the Residential Conservation Program for 3 years, as well as repeal the Commercial and Apartment Conservation Program. There is no opposition to this bill in the Senate and there are several important reasons for including it in the continuing resolution package.

This amendment likewise has been cleared by both the Republican and Democratic managers as well as has been cleared with the Energy Committee on both sides of the aisle as well.

The authorization of the Residential Conservation Program has expired and is currently the subject of a complex legal argument between the Department of Energy and the General Accounting Office as to whether or not the program is terminated. This legislation clears up that argument, extends the life of the program for 3 years, and provides a definite termination date.

Additionally, this amendment includes an important waiver provision that would allow States and utilities to operate alternative conservation programs which are more effective than the DOE-approved program. This added flexibility is strongly desired by some States, like my own State of Iowa, which has been battling with the Department of Energy because it has devised a program that enjoys a higher participation rate and promises more energy conservation. However, Iowa needs this waiver provision to ensure that it has the authority to operate its more effective program.

This amendment also repeals the CACS Program which would achieve minimal energy savings, yet require utilities' ratepayers to subsidize the program. Legislation to repeal the CACS Program has already unanimously passed both Houses in the last Congress.

The last provision in this amendment has been approved by the Energy Committee and will allow the Federal Government to enter into shared savings contracts. The Department of Defense and the Department of Energy which have approved this legislation estimate that the Federal Government could reduce its overall energy bill by $400 million, or 10 percent over the next 10 years if this provision is enacted.

Mr. President, these provisions have all passed the Senate before, however, it is clear that there isn't enough time left in this session for separate legislation to be conferenced and passed. I hope that my amendment can be approved by this body at this time.

Mr. TRIBLE. Mr. President, I rise in support of the amendment being offered by my distinguished colleague from Iowa, Senator GRASSLEY. I supported these same provisions when they were unanimously passed by the

Senate last July as S. 410, the Conservation Service Reform Act of 1985.

Since that time, the legislative inaction of the other body on this matter has left the Department of Energy with no alternative but to continue the implementation of the Commercial and Apartment Conservation Service [CACS] Program—a program that the evidence clearly demonstrates achieves minimal energy savings but requires the investment of millions of dollars by public utilities.

Indeed, Congress has already recognized the need to repeal CACS: Last session, both Houses unanimously approved legislation which contained CACS repeal. Unfortunately, unresolved differences in other provisions of the bill prevented enactment into law. This year, House committee negotiations have once again yielded agreement on the need to repeal CACS. Even though disagreement still exists over the future of its sister program, the Residential Conservation Service Program [RCS], attachment of S. 410 to House Joint Resolution 465 would resolve a matter on which both bodies agree before more money is needlessly spent by utilities.

Moreover, S. 410 does not preclude or preempt the negotiations currently taking place in the House on RCS. It directs the GAO to conduct an exhaustive cost/benefit analysis so that Congress can then decide whether the program should be continued and reformed or allowed to expire in 1988.

That means that consideration of the future of the RCS Program can continue unabated for another 2 full years. Surely, it would be both illogical and irresponsible to force utility ratepayers to continue to foot the bill for the CACS Program during that time when there has been and continues to be unanimous agreement that the worth of CACS as a conservation program is dubious at best and should be repealed.

Let us not allow our differences over the RCS Program result in higher utility bills for our constituents. I applaud Senator GRASSLEY for taking this action and strongly encourage my colleagues to support this most worthy amendment.

Mr. JOHNSTON. Mr. President, this legislation has previously passed the Senate with a unanimous vote. We have no objection to the amendment.

Mr. McCLURE. Mr. President, we have no objection. It is a part and parcel of the reconciliation bill. We have no objection to its addition here.

Mr. METZENBAUM. Mr. President, will the Senator from Iowa yield for a question?

Mr. GRASSLEY. Yes.

Mr. METZENBAUM. Is this the identical language that passed the Senate?

Mr. GRASSLEY. Yes.

Mr. METZENBAUM. Is it not a fact that once it left the Senate, it went to conference, and that the House and Senate conferees then came up with a different method of spelling out this issue?

Mr. GRASSLEY. The House has never passed its version of this bill. So that is the problem we are in right now. This program does expire.

Is the Senator making any reference to the shared savings portion of our amendment?

Mr. METZENBAUM. No; I am concerned about this: It is my understanding that the House Members who have jurisdiction as pertains to this issue had indicated some strong reservations on this subject. I am frank to say to the Senator from Iowa I do not know what the details of those reservations or concerns are. But I am aware of the fact that if it goes under the continuing resolution, they are not going to have an opportunity to be heard. And the Members who have indicated concern are those who are very much concerned about the whole matter of residential conservation and maintaining the standards that we presently have in the law.

As I understand this proposal, it would weaken the standards in favor of State enforcement because if there were a State enforcement because if there were a State program in force, then the Federal law would not be applicable.

Mr. GRASSLEY. It has the provision that allows the waiver for States that have a superior program, and allows that State to operate that superior program.

Mr. METZENBAUM. Who makes that determination as to whether it is or is not superior?

Mr. GRASSLEY. The Governor or the Secretary of Energy.

Mr. METZENBAUM. I am frank to say to my friend and colleague from Iowa that I am not sufficiently knowledgeable about the subject to oppose his amendment. But I think it is proof positive this is a very substantive piece of legislation. That is the reason that it should be on the continuing resolution. That is the reason we would make it subject to a point of order. I am reluctant to make the point of order.

Mr. GRASSLEY. If the Senator from Ohio will yield, I can amplify this to a greater extent. I did say this previously, but let me say it again. This amendment was reported out of the Energy Committee unanimously and the Senator from Ohio would have supported it at that point. It also passed unanimously on the Senate floor.

Mr. METZENBAUM. Would the Senator from Iowa give the Senator from Ohio the opportunity to check some facts, with a unanimous-consent request that the amendment be temporarily set aside?

Mr. GRASSLEY. I think the Senator from Ohio should be satisfied because we have worked so long and so hard on this program. With the opportunity that it might not be passed by the Senate, getting out of conference and all of that, and since we desire to go through, and with the Senator from Ohio having previously looked at it, I think it is perfectly legitimate that the Senator should be satisfied.

Mr. METZENBAUM. I appreciate the courtesy of the Senator.

Under those circumstances, Mr. President, I ask unanimous consent that this matter be temporarily laid aside until such time as we can return to it.

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

The Senator from Idaho.

AMENDMENT NO. 1363

Mr. McCLURE. Mr. President, on behalf of the distinguished Senator from California [Mr. WILSON], and the distinguished Senator from Rhode Island [Mr. CHAFEE], I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. WILSON and Mr. CHAFEE, proposes an amendment numbered 1363.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place insert in H.J. Res. 465: Appropriations and funds available to the United States Fish and Wildlife Service shall be available for, and the Secretary shall immediately resume preparation of, all environmental assessments and statements that are necessary prerequisites to the translocation of a portion of the existing population of Southern sea otters (Enhydra lutris nereis) to one or more locations within its historic range in accordance with the recovery plan for such species. In preparing such assessments and statements the Secretary shall consider Section 10(j) of the Endangered Species Act (16 U.S.C. 1539(j)) as well as pending legislation that would amend such Act.

Mr. WILSON. Mr. President, on behalf of myself and Senator CHAFEE, this amendment will direct the Secretary of the Interior to continue preparing an environmental impact statement on the translocation and establishment of an experimental population of California sea otters, a species listed as threatened under the Endangered Species Act.

On June 27, 1984, the Fish and Wildlife Service published in the Federal

Register a notice of intent to prepare an environmental impact statement [EIS] on its proposal to initiate the scoping process and establish an experimental population of sea otters outside of the population's current range. The Service identified San Nicolas Island—one of the Channel Islands in the southern California bight—as the preferred alternative for the translocation. Other alternative translocation sites under evaluation by the Service are northern California, southern Oregon, and northern Washington State. This amendment is not intended to affect in any way the Service's selection of any particular translocation site. However, it is intended to affect the alternatives under consideration in the EIS. It will also get the currently stalled process moving again.

The issue of sea otter translocation has been raised in the context of pending legislation to reauthorize the Endangered Species Act [ESA]. The bill that was recently approved by the Senate Committee on Environment and Public Works, S. 725, does not address the issue. The House-passed bill, on the other hand, H.R. 1027, contains a lengthy, detailed amendment to the ESA on this subject. Based upon the existence of H.R. 1027 and uncertainty over what actions the Senate will take on the proposed amendments, the Fish and Wildlife Service has stopped work on the EIS. The rationale used by the Service to justify its lack of work on the EIS reportedly has to do with the futility of expending time, effort, and money on a project that may be substantially modified by congressional action. Mr. President, such an argument could be used to justify work stoppage on all executive branch projects.

The Service is apparently prepared to continue the EIS process when they are given some assurances as to what the law will be. Unfortunately, we are not in a position to provide such assurances and cannot predict when such certainty will be forthcoming. Fortunately, there is an alternative that will allow the EIS process to go forward and will avoid the potential problem of wasted time, effort, and money. As set forth in this amendment, the Service is to continue the EIS process and to consider, as one alternative, a relocation that comports with the provisions of H.R. 1027 as if the House-passed amendments were law. Another alternative to be analyzed is one that does not assume enactment of H.R. 1027 as passed by the House but which assumes that the ESA has been amended to provide that, for purposes of implementing a relocation plan, no act by the Service, the appropriate State agency, or its authorized agents necessary to bring about the relocation or management of the sea otter under the plan may be treated as a violation of any provision of the Marine Mammal Protection Act of 1972 [MMPA]. This second alternative is to assume that a reading of the law suggesting that translocation of otters is precluded unless the translocation and subsequent management of the population can fall within the MMPA research exception is either erroneous or the law has been changed to make such a reading erroneous.

By directing the Service to review and anticipate in the EIS process possible legislative changes as alternatives or options for planning purposes, we are not suggesting our preference or predicting a particular outcome. Similarly, we are not limiting the alternatives or options that are to be reviewed. We are simply trying to get the process moving in a way that will avoid the wasteful expenditure of time, effort and money.

Mr. McCLURE. Mr. President, this amendment deals with the environmental impact statement on the translocation of California sea otters. I know of no opposition.

Mr. JOHNSTON. Mr. President, I understand this amendment is agreeable to all parties involved. We have no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1363) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 1364

Mr. EVANS. Mr. President, I send an amendment to the desk for myself and Mr. GORTON, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. EVANS], for himself and Mr. GORTON, proposes an amendment numbered 1364.

Mr. EVANS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the resolution, insert the following new section:

"SEC. —. Notwithstanding any other provision of this resolution, the number '$15,033,000' on page 9, line 12 of H.R. 3011 as reported by the Senate Committee on Appropriations on September 24, 1985 shall be increased to $16,733,000, of which $1,700,000 shall be available until expended to commence construction of fish hatchery facilities on the Nisgually River, Washington.".

Mr. EVANS. Mr. President, this amendment simply authorizes the first stage of construction of a fish hatchery on the Nisqually River. Appropriations for the development of plans and specifications were included in the 1985 budget year. This is the highest priority hatchery to come out of the United States-Canada treaty negotiations. It has been cleared on both sides of the aisle.

Mr. President, this is the first opportunity to offer this on the Interior appropriations. That is the reason we are bringing it to the continuing resolution.

The PRESIDING OFFICER. Is there objection?

Mr. JOHNSTON. Mr. President, we have no objection to the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. McCLURE. Mr. President, would the Senator from Washington yield for a question?

Mr. EVANS. Yes.

Mr. McCLURE. Mr. President, this amendment the Senator has offered deals with the construction of a fish hatchery which would be located on Fort Lewis, WA, but within the bounds of the Nisqually Reservation; am I correct?

Mr. EVANS. The Senator is correct.

Mr. McCLURE. As I understand the original and earlier intention as evidenced by a joint statement from the State of Washington and the Nisqually Indian community, dated February 6, 1980, there was a stated understanding that the hatchery would be constructed at the expense of the Federal Government, operated by the State of Washington, and then become the property of the Indian tribe.

My understanding of the amendment offered today by the Senator from Washington is that the money would be provided by direct appropriation, with the understanding that the Federal Government would retain title to the hatchery when constructed; that they could enter into any appropriate arrangement with the State of Washington and/or the Nisqually Tribe, but under the Senator's amendment, it would be the property of the United States.

Mr. EVANS. The Senator is correct. Under this amendment, the facility

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would vest in the U.S. Government, not either the State of Washington or the Nisqually Indian Tribe. The title to the land, however, on which the facility is located is Nisqually tribal land.

The Nisqually Tribe, in consultation with the Fish and Wildlife Service, would maintain and operate the facility.

The formal letter of 1980 I do not think has been considered for some period of time. This, as I have seen it, is the understanding and the way for this to be carried out.

Mr. McCLURE. And the latter provisions with respect to the maintenance and operation of the facility would be pursuant to an appropriate agreement signed by the Federal Government and the tribe.

Mr. EVANS. It would be with the Fish and Wildlife Service, yes. It is important to point out that this notification will be served on the United States-Canada Commission carrying out the treaty which was signed earlier this year, as is required by the treaty.

This becomes part of the national fish hatcheries system and, in effect, a very important part of the system.

Mr. McCLURE. If the Senator will yield further, that latter portion of the statement of the distinguished Senator from Washington is both desirable and, in my view, necessary with respect to our relationships with our friends from Canada under that agreement. This is an enhancement of the fish run which is contemplated by the treaty with Canada for which the United States will be given credit under the treaty.

Mr. EVANS. The Senator is correct, and I think it is important for him to point that out. This clearly is an enhancement project post-treaty and the enhanced fishery from this will accrue to the benefit of the United States.

Mr. McCLURE. Mr. President, I have no objection to the amendment. I support the amendment. I would want the RECORD to reflect my understanding that the operation and maintenance by the tribe is subject to an appropriate agreement with the Federal Government and it, indeed, that is not consummated or if it should expire by its terms or otherwise, the operation and maintenance would be in the Federal Government in the absence of such an agreement.

With that understanding, Mr. President, I have no objection to the amendment. Indeed, I enthusiastically support it.

The PRESIDING OFFICER. Is there further debate on this amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1364) was agreed to.

Mr. EVANS. I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1365

(Purpose: To designate the educational center at the Lowell National Historical Park, Massachusetts, as the Paul E. Tsongas Industrial History Center)

Mr. McCLURE. Mr. President, on behalf of Mr. KERRY, Mr. KENNEDY, Mr. RUDMAN, and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for himself and Mr. KERRY, Mr. KENNEDY, Mr. RUDMAN, and Mr. ROTH, proposed an amendment numbered 1365.

At the end of the joint resolution insert the following new section:

SEC. . The educational center to be located at the Booth Hill Complex, Building No. 6, in the Lowell National Historical Park, Massachuesetts, is hereby designated and shall be known as the "Paul E. Tsongas Industrial History Center."

● Mr. KERRY. Mr. President, this amendment would designate the education center to be located at the Lowell National Historical Park as the "Paul E. Tsongas Industrial History Center."

The city of Lowell, MA was, in the midseventies, a city on the brink of depression. today, its health and vitality are apparent to all who visit the city. And it is also clear that without the vision of Paul Tsongas and his commitment to creating a renewed Lowell through the Lowell National Park, Lowell might still be in that condition. The creation of the park by Paul and Congress is the single most significant event that brought Lowell and this crucially important part of New England back to life. For this alone, the people of New England owe Paul a great debt of gratitude.

But as we all know, Paul's vision has gone beyond Lowell. As a Peace Corps volunteer in Ethiopia, as a committed Foreign Relations Committee member developing initiatives, and as a participant in floor debate concerning the education of our young people, Paul has demonstrated his dedication to making life better and more secure for our people.

Consequently, with the acceptance of my amendment, we will be going well beyond recognizing Paul Tsongas' extraordinary contributions in the creation of the park and its subsequent vitality by naming for him this important educational center at the park. The center will offer a "continuing training" program that will be offered to elementary and secondary teachers interested in curricula on the history of industry. In addition, 20,000 to 30,000 students a year are expected to participate in programs at the Tsongas center and it is anticipated that it will become a focal point for the study of the commerce and industry that changed the face of America and the world. Paul's long interest in improving the education of our young people and his dedication to learning for the future through the past makes this honor especially fitting.

● Mr. McCLURE. Mr. President, this amendment has been cleared on both sides and I hope that it will be adopted. This is a fitting tribute to a distinguished former colleague. I support the adoption of the amendment.

● Mr. KERRY. I thank the distinguished managers of the bill for their cooperation in this matter.

Mr. President, I also have an amendment that would provide funds for construction, development, and acquisition of land for the Lowell National Historical Park and the Lowell Preservation Commission. My amendment would simply add to the Senate bill funding that is contained in the House bill.

The Lowell Historical Park and the Lowell Preservation Commission were established by Congress in 1978 under the sponsorshp of then Congressman Paul Tsongas. It is clear that both entities have made major contributions to the phenomenal economic revitalization of Lowell, MA. For those of us who knew Lowell in the years prior to the park and the commission, the transformation is nothing short of incredible. Back then, this chronically depressed mill town had an unemployment rate of 13 percent. In a relatively short time, unemployment has shrunk to almost 4 percent and new construction in 1983 increased by 160 percent, according to Dun & Bradstreet. Since the park's inception, a public sector contribution of $61 million in Federal and State funds has leveraged a private sector investment of over $167 million in the downtown area alone.

The park's benefits have been both direct and indirect. In terms of direct economic benefits, the National and State parks will attract some 700,000 visitors in 1985, each of whom will spend approximately $8, exclusive of lodging. In terms of development, funds appropriated by Congress under the park's development authorization represent half of the public-sector contribution to the downtown revitalization.

Just as important as the visitors from around the country and the world the park has brought to Lowell and the accompanying revitalization are some of the indirect benefits that have come to the region. The national park helped to create a consensus by articulating goals for the city and a clear vision for the future. It has contributed to a dramatic change in image—both the community's self-image and the image it projects to developers, businesses, and potential visi-

tors. Lowell and the surrounding communities have a bright future due in large part to the foresight of Paul Tsongas and the continued support of Congress in recognizing the importance of maintaining adequate support for these important projects.

● Mr. McCLURE. Will the Senator yield for a question? I want to take this opportunity to point out that Congress has appropriated moneys in excess of what was anticipated in a 5-year plan that was presented to us in 1983. In order that we might all better understand where we might be going in the future, would the Senator tell us what funds he anticipates will be necessary in the coming years.

● Mr. KERRY. Certainly. The manager of the bill is quite correct in pointing out that Congress has been very generous in appropriating funding for Lowell. I might also, perhaps presumptuously, extend an open invitation to the chairman to pay a visit to the city so that he might see how prudently and effectively that money has been spent.

In looking at that 5-year plan, I think it is important to note that most of the projects on the list are in some stage of production. In some cases the park and commission made some changes, but they were only in cases in which it was determined that it would be cost-effective to utilize historical leases in lieu of extensive rehabilitation of properties. On some items on the 5-year list, the construction estimates were, frankly, too low.

Looking at future plans for Lowell, I believe it is fair to say that we are nearing the end of the road for construction and acquisition needs. I have reviewed the anticipated expenses for development of the park and the commission for the next 3 fiscal years and I will tell the manager of the bill that these requests through fiscal year 1988 will total far less than many of the individual funding requests for the last several years.

The park at this time anticipates requiring $1.2 million for development and acquisitions in fiscal years 1987 and 1988 and an additional $588,000 for operations for the same 2 years. Additional appropriations after fiscal year 1988 for the park are not anticipated at this time and there are no known circumstances under which they would be requested.

The Preservation Commission, whose authorization expires after fiscal year 1987, anticipates requesting the remaining $2.5 million next year that has not yet been appropriated.

I have discussed this amendment with the distinguished manager of the bill and I understand concerns he has about amendments like this one. It is my understanding that there is some disagreement about the amount that the Interior title is over its budget mark, with a range of estimates from $2.5 billion below the budget resolution to $1.2 billion above the resolution. Consequently, I share your concerns about the spending level. I am also aware of the history of appropriations for the Lowell National Historical Park and the Lowell Preservation Commission. With the exception of last year, in which the chairman graciously accepted the amendment of my departing predecessor, the Senate has never included additional funding for Lowell in its appropriations bill. In conference, however, the Senate conferees have consistently accepted the House language and funding.

It is my strong hope that Congress will once again reaffirm its commitment to what has been referred to on this floor by the distinguished chairman of the Appropriations Committee as one of our national historic treasures.

● Mr. McCLURE. I have spoken with the Senator from Massachusetts about his proposed amendment and I believe that he understands my reluctance to include additional items in the Interior title at this time. However, the Senator is quite right about the history of appropriations for the Lowell Park and, while I cannot make a specific commitment at this time, I can assure him that if he will not call up his amendment, I will give his request every consideration in my discussion with the conferees in seeking an agreement on adequate funding for both the Lowell National Historical Park and the Lowell Historic Preservation Commission.

● Mr. KERRY. I want to thank the chairman for his consideration in this and with that understanding I will not call up my amendment.●

Mr. McCLURE. Mr. President, the purpose of this amendment which is offered by those of us named as sponsors—and I am sure others will want to be added as cosponsors—would designate the educational center to be located at the Lowell National Historical Park as the Paul E. Tsongas Industrial History Center.

There is no one in this body who was more involved in the development of and the support for the Lowell National Historical Park than our former colleague, Paul Tsongas. I think it is fitting for us to take this action which the distinguished Senator from Massachusetts [Mr. KERRY] has undertaken. I am grateful to him for having brought this matter to our attention and made this suggestion. I fully support this amendment.

Mr. President, I ask unanimous consent that the Senator from Ohio [Mr. METZENBAUM] be added as an original cosponsor of the amendment.

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

Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1365) was agreed to.

Mr. McCLURE. I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I ask unanimous consent that all Members of the Senate be given until the close of business tomorrow to add their names as original cosponsors to this amendment if they so desire. I think the nature of the subject matter deserves that kind of consideration. I know many of our colleagues would like to have that opportunity.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I think we are getting very close to the point at which we hope to be able to close this down. I am told that there are a number of colleagues on our side of the aisle who have amendments that they want to bring up. I urge them to speak now because we hope they will soon have to hold their peace.

Mr. SIMPSON. Mr. President, many colleagues are inquiring about the agenda for the evening. The best that I think I can, after review, share with them is that I think the Senator from Wyoming [Mr. WALLOP], has an amendment which will be processed in a few minutes. I think it will require a rollcall vote.

I think after conferring with the minority leader, and he now is circulating a time agreement on his side of the aisle, we may have the opportunity to find that we can finish our activity tonight and have the only items of business locked into a unanimous-consent agreement be the amendment with regard to the Armed Services Committee and the discussion now going on between the Senator from Arizona and the Senator from Alaska.

The prospect is that we would then have, very likely, not more than one more rollcall vote this evening, and tomorrow, we would have the unanimous- consent agreement—this is what is being attempted to be obtained—to deal with the Armed Services Committee—Senator GOLDWATER, Senator NUNN, Senator STEVENS—proposal. That would be tomorrow, and one other amendment of Senator WALLOP'S, which would have a time agreement, as I say, on anything other than the Stevens-Goldwater-Nunn proposal that is going on now. If we can do that, then we would have one more vote this evening and then I think the chairman of the Committee on Appropriations may have more to report on that, but that is the intent of the leadership so that we will not keep people here.

Yet, if we do not receive this type of indication of general support, we have no alternative but to proceed. I am perfectly willing to stay here as long as the chairman of the Appropriations Committee would like to remain so that he can do the business which he is doing so capably, along with Senator JOHNSTON.

Mr. HATFIELD. Mr. President, I thank the leadership for the résumé that he has just presented as to where we are in this process.

We have taken four rollcall votes challenging amendments either on a point of order that they were legislation on appropriations, or tabling such motions or amendments. We now have a new generation of amendments that are being identified, beginning with the Grassley amendment, which seeks again to establish the legislation on an appropriations measure by some major piece of authorizing legislation which has either already passed the Senate or has certain date problems to be accomplished.

The Senator from Delaware has prepared one, the Senator from Indiana, I understand, is preparing one.

I must say, Mr. President, hoping to bring this to some kind of orderly conclusion, that I am going to be forced to follow that action that we started early and indicate to those proponents of such measures that we will make a point of order.

I will at some appropriate time make a point of order on those, not in any way as indicating my feeling about the importance of the amendment or their rights to offer amendments but merely to try to expedite the continuing resolution process.

Mr. COHEN. Mr. President, will the assistant majority leader yield?

Mr. SIMPSON. Yes.

Mr. COHEN. Could I point out in any consideration we might give to propounding a unanimous-consent agreement we take into account the Senator from Virginia [Mr. TRIBLE], who is now sitting in the chair, who had proposed an amendment which apparently was about to be accepted and the Senator from Maine intervened at least in time, or with the purpose of allowing the Navy to examine the amendment.

It does have some importance to the State of Virginia and to Maryland and to perhaps several others, and it would be unfair to take advantage of this particular unanimous-consent proposal if one is propounded while the Senator is sitting in the chair.

Mr. JOHNSTON. Will the Senator yield for a question? Is the Senator handling that matter for the Armed Services Committee?

Mr. COHEN. I am awaiting the Navy to arrive right now.

The PRESIDING OFFICER. Has the Senator from Oregon yielded the floor?

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

Mr. SIMPSON. Mr. President, what is the status of our business? Is there an amendment pending?

The PRESIDING OFFICER. The Grassley amendment has been set aside by unanimous consent for the purpose of receiving other amendments. A call for the regular order would return us to the Grassley amendment.

Mr. SIMPSON. May I inquire of my colleague from Iowa if he would perhaps withdraw that amendment, if we could proceed with this hoped-for process?

Mr. GRASSLEY. Yes. Before I withdraw it, I would like to make an explanation to the chairman of the Appropriations Committee, if I could. I would like to withdraw my amendment but I would like to say to the chairman of the Appropriations Committee I did not offer it until I had the OK of the floor manager at the time as well as the Democratic leader at the time, and also my understanding was it fell into the category of some amendments that had previously been adopted. So there was not any new campaign being started. If the Senator assures me that my amendment does fall into that category, then I am willing to withdraw it because it was not my intent to offer it unless it had been fully agreed to in the first instance.

Mr. HATFIELD. I say to the Senator, as he knows, these things have a way of proliferating without any particular strategy or design, and since the Senator had offered his amendment I have been alerted to two other similar amendments dealing with important legislative matters that will be offered and others that may be in the process of being drafted.

Now, whether or not it was the amendment of the Senator from Iowa that triggered this or these others were in the process I do not know, but I can only say we are not beginning now to face a diminution of amendments but it appears now we are seeing an expansion of amendments.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to withdraw my amendment.

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

AMENDMENT NO. 1366

(Purpose: To provide $150,000 for the National Park Service to be used for restoration and renovation of the Lonoke Depot in Lonoke, Arkansas)

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 1366.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the bill be dispensed with.

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

The amendment is as follows:

Before the period on page 4, line 12, insert the following: "; *Provided further,* That $150,000 shall be available to the National Park Service solely for the restoration and renovation of the Lonoke Depot in Lonoke, Arkansas."

Mr. BUMPERS. Mr. President, this amendment would provide $150,000 to be used for restoration and renovation work at the old Rock Island Railroad Depot in Lonoke, AK. The restoration of this historic building in the center of the Lonoke business district has been a community priority since 1981. The restoration of the depot would be a major step toward revitalizing the downtown business district in Lonoke.

The Lonoke Depot was constructed in 1912 to accommodate passenger and freight traffic along the Rock Island Railroad Line. The city of Lonoke grew up around the railroad line and thrived during the years that trains were the major form of transportation. During the late 1960's and the 1970's, the railroad company allowed the building to deteriorate and it was finally left standing vacant in 1977. When Rock Island was forced into bankruptcy, the Missouri Pacific Railroad Co., purchased that portion of the line in 1984 and sold the depot to the city of Lonoke for the sum of $1. The Lonoke Historical Society was designated as the sublessee of the building in order to facilitate the restoration of the building as a historic landmark in Lonoke.

In 1984, the Lonoke Depot was added to the National Register of Historic Buildings, this country's official list of properties considered especially worthy of preservation. In March of this year, the Lonoke Historical Society received a $10,000 grant from the Arkansas Industrial Development Commission to be used for planning and preliminary design purposes. The planning study has been completed and the cost of restoring and renovating the building has been estimated at $150,000. This cost estimate covers basic structural renovation to restore the building to its original condition and includes modern heating, cooling, and electrical work.

The depot is located in the center of the Lonoke business district. Because of a lack of funds for maintenance and renovation, the depot has continued to deteriorate and is an eyesore in the center of the town.

The city of Lonoke is in the process of developing an economic development strategy for the central business district which emphasizes the restora-

tion of the depot. The city plans to use the depot for community activities and will rent out one area as commercial space to provide enough money for maintenance and utilities.

The people of Lonoke are dedicated to the restoration of the depot and they have worked very hard to raise enough money to begin a little work on the depot to stop its deterioration. Through community fundraisers, citizens have contributed close to $13,000 for the depot project.

This appropriation would allow the citizens of Lonoke to push forward with their plan to restore the Lonoke Depot to its original position as a center of activity in their community and as the centerpiece of the complete revitalization of the city of Lonoke.

This is extremely vital to a very fine, small community in my State and I would appreciate the acceptance of the amendment.

Mr. McCLURE. Mr. President, as I understand it, this amendment would call for available funds; it is not additional money.

Mr. BUMPERS. The Senator is correct.

Mr. McCLURE. The Senator and I have discussed this matter and I cautioned the Senator that, with this not being in the House bill and this section of the bill being very tight, indeed, we might not be able to hold this matter in the conference. I think the Senator understands that. I have no objection to the amendment, but I did not want to be flying under false colors here tonight with respect to what the acceptance of the amendment might mean ultimately in conference.

Mr. BUMPERS. I thank the Senator.

Mr. PROXMIRE. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. Is there further debate, If not, the question is on agreeing to the amendment.

The amendment (No. 1366) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1367

(Purpose: To reduce U.S. funding for the United Nations to the level provided by the Union of Soviet Socialist Republics)

Mr. WALLOP. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Wyoming [Mr. WALLOP] proposes an amendment numbered 1367:

At the appropriate place, add the following:

Notwithstanding anything in this Act to the contrary, no funds may be expended for voluntary payments to the United Nations or any affiliate or subsidiary thereof which are in excess of the amount $15,000,000.

Mr. WALLOP. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

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

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

Mr. WALLOP. Mr. President, I ask for the yeas and nays on my amendment.

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

The yeas and nays were ordered.

Mr. WALLOP. Mr. President, I will not be long and I will try not to take the time of my colleagues.

Despite the prevalent rhetoric and debate on the subject of deficits and budget restraint, little actual restraint accompanies the rhetoric. The amendment I address today will not only save the American taxpayers almost $1 billion, but will also serve the best interest of our people while it saves money.

This amendment does not affect our assessed contributions to the United Nations, but will reduce the level of U.S. voluntary contributions to the United Nations to a level not to exceed that of the Soviet Union. In 1984 our voluntary contribution was $949,687,000; compared with the Soviet contribution of only $11,947,000. Reducing the amount of our contribution to that of the U.S.S.R. will save our taxpayers $930,340,000.

We all have firm opinions of the United Nations, for good or ill, and I do not propose a lenghly debate on this issue today. I believe, however, that before we vote on this measure a few points should be made.

The regular budget of the United Nations has grown from a 1946 level of $19.3 million to a 1984 budget of $792 million. This represents a 4,168-percent budget growth, or an average annual growth of over 100 percent. Last year 6 countries contributed 65 percent of this budget, but these generous nations comprise such a small voting bloc at the United Nations that they exercise virtually no control over the United Nations's profligate spending. The United States alone contributes 25 percent of the United Nations budget compared to the Soviet contribution of 10.34 percent. With a few countries providing a virtually powerless unrestricted money tree, there is little incentive within the United Nations to make any effort whatsoever to restrain spending or cut costs.

While the United Nations has no incentive to cut costs, the U.S. taxpayers—and those of us who represent them—do have that incentive.

A tip-of-the-iceberg look at how the United Nations spends its money leads to the inescapable conclusion that an inordinately large percent of that money is spent on staff and overhead, simply wasted, or spent on programs and activities directly contrary to the best interests of the free world.

Unesco provides a good example of money being wastefully or damagingly spent. It also serves as proof that the United States not only can but should take action to control our own resources. United States withdrawal from Unesco has been accomplished without apocalyptic consequences; leading one to conclude that similar restraint on the use of our dollars will likewise not bring the world to the brink of disaster. From 1981 to 1983, the U.S. share of selected Unesco programs was: $2,220,775 for aid to refugees and such "national liberation movements" as SWAPO, the PLO, and the ANC; $4,550 for a chauffeur and maintenance of motor vehicles for the President of the General Conference; $439,887 on travel and per diem for the Executive Board and President; $7,700 for medals conferred by the Directorate; $383,587 for interpretative services for the Executive Board; $283,275 for field staff salaries; and $3,967,350 for salaries of headquarters staff. Compare those generous amounts with: $1,800 on curriculum development and production of teaching aids in Pakistan; $25,950 for a special education advisor in Haiti; and a mere $250 for teacher training in Honduras. But they managed to find $1,144,000 of our money to spend on a conference on the Status of Women and participation of women in development.

Since we have withdrawn from UNESCO we are saving those ill-used dollars. But lest anyone think UNESCO was unique, let's look further. The U.N. Development Program has as its ostensible purpose the assistance of lesser-developed countries with efforts to accelerate social and economic progress, UNDP has a governing council of 48 members, of which only 17 are considered our allies; consistent with the U.N. policy of spending our money but denying us any real voice in determining how it is spent.

Our contribution to UNDP in 1982 was $127,300,000, the last year for which a compendium of programs was available (our contribution for this year is $165,000,000, or 25 percent of the entire budget). In 1982 we contrib-

uted about 19 percent of the UNDP grants, which warrant examination. The UNDP granted $980,000 to Ethiopia for logistical and technical support for food aid transport. At the same time, however, they were awarding to starving Ethiopia: $4 million for handicraft industries and leather development; $716 thousand for preservation and presentation of selected sites and monuments; $100 thousand for solar power and telecommunications; a total of $61 million in grants for the reporting period.

And it gets worse. There are other UNDP grants described in the program compendium in which we should take an active interest.

$7.4 million to Afghanistan for civil aviation fellowships, administrative reform, world bank development and assistance to the Afghan Institute of Development.

$3.5 to Bulgaria for ship handling and maneuverability, science and technology projects and ship hydrodynamics and robotics institute.

$24.3 million to Cuba, including money for training of personnel for the hotel and tourism industry and $1.8 million for the introduction of nuclear techniques into the national economy.

$3.1 million to Czechoslovakia, $2 million to Iran, $27.2 million to Laos, $8 million to Poland (including $1.8 million for the Trans-European Motorway connecting Soviet bloc nations), $5.5 million to Libya, $7.5 million to Mongolia, $6 million to Nicaragua, $11.1 million to Romania, $16.8 million to Syria, $57 million to North Vietnam, $7.5 million to Yugoslavia.

A look at UNICEF's record is about the same. Of the U.S. dollars contributed in 1984-85, $461,087 were spent on all programs in the Caribbean, South and Central America. Compare that with the U.S. contribution of $7,417,500 to African programs. Welfare services for children in East Asia and Pakistan added only another $25,233. Even the costs for overhead, personnel, publications, exhibits, etc., $3,247,043, far exceeded the program spending in our own hemisphere.

Even if one could overlook the recklessness with which billions of dollars are being spent, the inescapable conclusion must be drawn that the United States is not deriving any real benefit from the use of our dollars. On the contrary, we are largely financing the Eastern bloc in its fundamental assault on our system. The U.S. contributes over 8 times as much money to the United Nations as does the Soviet Union, even ignoring the fact that they are $200,000,000 in arrears in their payments now. This imbalance in contributions is reversed when benefits are considered. In 1983 the United States was given only 9.7 percent of the high-level secretariat posts, compared to the Soviet's 15 percent share. The Soviets pay their contributions, when they do pay, in ruples at an exchange rate they set themselves; effectively paying in currency worthless outside the U.S.S.R. By being permitted to maintain the ruse that the Ukraine and Byelorussia are independent States, the Soviets are given three votes in the General Assembly and three missions in New York—we of course have only one.

Furthermore, according to Arcady Shevchenko, Soviet employees at the United Nations are required to turn their U.N. salaries over to Moscow in exchange for much reduced salaries from the Soviet State. It has been estimated that well over 50 percent of the millions of dollars earned each year by the Soviet secretariat staff actually ends up in Moscow's coffers—largely at U.S. taxpayers' expense. And it is a well-accepted fact that the U.S.S.R. routinely uses its United Nations and embassy staff for extensive espionage operations in the United States. Our own FBI estimates that about one-third of the Soviet personnel in the United States are engaged in espionage; other estimates place that number as high as 50 percent. Whatever the number, it is too high, and we are paying for it. And we are paying for U.N. contributions, based on their own figures of 1981-84 grants, of $2.4 million to SWAPO, $2.9 million to PAC and $2.9 million to the ANC.

And despite our unchecked generosity, the United Nations continues to condemn our actions (Grenada), denounce our allies (Israel), and refuse to so much as slap the wrist of others for chemical rain, the invasion of Afghanistan, the genocide in Southeast Asia, the murder of innocent people aboard Korean airliner KAL007—the list goes on and on.

Surely it is an act of free world suicide for us to continue, without a whimper, financing the operations of those organizations and institutions dedicated to our destruction. And it is fiscally irresponsible to give the United Nations a blank check on the U.S. Treasury. Now is the time to put a halt to this process, and this amendment is the means to accomplish that.

The amendment means to put us to the same level of contribution as that of the Soviet Union—and, incidentally, the likelihood that we will pay ours and the likelihood that they will not pay theirs.

Mr. HATFIELD. Mr. President, it is certainly not personal, but I reluctantly rise at this time to move to table the amendment offered by the Senator from Wyoming.

Mr. WALLOP. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ARMSTRONG. Mr. President, will the Senator withhold the tabling motion briefly?

Mr. HATFIELD. Mr. President, I withhold the tabling motion.

Mr. METZENBAUM. But it has been made.

Does the Senator want unanimous consent to proceed to speak?

Mr. ARMSTRONG. Yes, for 15 seconds.

Mr. President, I rise in support of the amendment and therefore in opposition to the tabling motion.

Mr. SIMON. Mr. President, I ask unanimous consent that I may speak for 1 minute.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SIMON. Mr. President, I simply point out that the United States economy is more than double that of the Soviet economy. I do not know of any other area where we want to use the Soviets as examples, as the Senator from Wyoming is suggesting.

So far as the benefits from the United Nations are concerned, it has not been a perfect instrument, but in Cyprus, in parts of the Middle East, in other areas of the world, it has done remarkably good work, including the U.N. Development Program that is headed by a former Republican Member of the House, Brad Morse.

I hope the Senate will reject the amendment of the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Oregon has moved to table the amendment of the Senator from Wyoming. A request was made for the yeas and nays.

Mr. HATFIELD. Yes.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. HATFIELD. We already have them, Mr. President.

The PRESIDING OFFICER. The Chair has not yet ruled.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon to lay on the table the amendment of the Senator from Wyoming.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from North Carolina [Mr. EAST], the Senator from Utah [Mr. GARN], the Senator from Arizona [Mr. GOLDWATER], the Senator from Kansas [Mrs. KASSEBAUM], the Senator fom Nevada [Mr. LAXALT], the Senator from Indiana [Mr. QUAYLE], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Delaware [Mr. BIDEN], the Senator from Arizona [Mr.

DECONCINI], the Senator from Ohio [Mr. GLENN], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from Louisiana [Mr. LONG], the Senator from Maine [Mr. MITCHELL], the Senator from Georgia [Mr. NUNN], the Senator from Maryland [Mr. Sarbanes] and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 42, nays 35, as follows:

[Rollcall Vote No. 360 Leg.]

YEAS—42

Baucus	Gorton	Metzenbaum
Bingaman	Harkin	Moynihan
Boschwitz	Hart	Packwood
Bumpers	Hatfield	Pell
Burdick	Heinz	Proxmire
Cochran	Johnston	Pryor
Cranston	Kasten	Riegle
Danforth	Lautenberg	Rockefeller
Dixon	Leahy	Sasser
Dodd	Levin	Simon
Durenberger	Lugar	Simpson
Eagleton	Mathias	Stafford
Evans	Matsunaga	Stevens
Gore	Melcher	Weicker

NAYS—35

Abdnor	Grassley	Nickles
Andrews	Hatch	Pressler
Armstrong	Hawkins	Roth
Boren	Hecht	Rudman
Bradley	Heflin	Symms
Byrd	Helms	Thurmond
Cohen	Hollings	Trible
Denton	Humphrey	Wallop
Domenici	Mattingly	Warner
Exon	McClure	Wilson
Ford	McConnell	Zorinsky
Gramm	Murkowski	

NOT VOTING—23

Bentsen	Garn	Long
Biden	Glenn	Mitchell
Chafee	Goldwater	Nunn
Chiles	Inouye	Quayle
D'Amato	Kassebaum	Sarbanes
DeConcini	Kennedy	Specter
Dole	Kerry	Stennis
East	Laxalt	

So the motion to lay on the table amendment No. 1367 was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I will try to bring my colleagues up on where we are at this time of the evening.

We are presently circulating a unanimous-consent agreement which will try to indicate to us how many more amendments there are to this remarkable piece of legislation. I hope it can be something like flushing the quail out of the brush so that we might know how many more we have. We have plenty. But if we can lock in a unanimous-consent agreement that those be the only amendments, that will be the intent. That is being circulated at the present time.

I am not quite aware of when we will finish the hot line, and the procedures to determine if that is agreeable. If that is cleared, we can propound that unanimous-consent request, and then go on to maybe some noncontroversial or nonrollcall amendments so that there be no futher need for rollcall votes tonight. But if we cannot, I want the chairman of the Appropriations Committee to know that I am here to support him, and to support Senator JOHNSTON, in their efforts to try to get this thing processed because Thursday is coming. The intent of further negotiations, further possible vetoes, the whole scenario that Senator HATFIELD has outlined to you is very imminent.

With that, I say that we will proceed. I yield to the chairman of the Appropriations Committee for his further review of the matter.

Mr. HATFIELD. Mr. President, I believe the Democratic side and the Republican side both have sent out hotlines on this matter of trying to get an inventory of the amendments that might be offered. Senators have been indicating that they either plan to or want to be protected for the right of offering an amendment.

I am very hopeful that shortly we can get a completion of those various amendments. Then I would ask the unanimous-consent request to lock that in as a sort of a cap on any other amendments on the continuing resolution. Senators would not be required to bring up those amendments, but at least we would then ask to limit any further amendments but those that are on the list.

If we can get that unanimous-consent agreement, then I would say we could probably conclude here tonight as far as rollcall votes are concerned. We would press on to take up as many amendments on that list that we could that do not require a rollcall vote.

If we cannot get a unanimous-consent agreement on such a restricted list for further amendments, we will just have to then move and whatever comes along which might or might not require rollcall votes will be the gamble it will take. So I can only say everybody ought to remain here somewhere near the Senate floor until we compose and conclude a unanimous-consent request.

AMENDMENT NO. 1368

(Purpose: To provide additional funds for operation and maintenance of the Army National Guard out of funds appropriated to the Army National Guard for procurement)

Mr. ZORINSKY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. ZORINSKY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nebraska [Mr. ZORINSKY] proposes an amendment numbered 1368.

Mr. ZORINSKY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . (a) Of the funds appropriated in this joint resolution for procurement for the Army National Guard, the sum of $27,000,000 is transferred to and merged with funds appropriated in this joint resolution for operation and maintenance for the Army National Guard as follows:

(1) $7,000,000 shall be available only for the repair and restoration of Army National Guard armories.

(2) $20,000,000 shall be available only for Army National Guard armory operating costs attributable to activities of full-time Federal personnel of the National Guard and the housing of equipment.

(b) Additional funds made available for operation and maintenance under subsection (a) shall be allocated among the States for purposes described in clauses (1) and (2) of subsection (a) as prescribed by the Chief of the National Guard Bureau.

(c) None of the additional funds made available for operation and maintenance under subsection (a) may be allocated to any State that reduces the amount of State funds for operation and maintenance of the Army National Guard for fiscal year 1986 below the amount made available by such State for such purpose for fiscal year 1985.

Mr. ZORINSKY. Mr. President, the amendment I am calling up today addresses some major problems with the preparedness of the Army National Guard forces that this Nation relies on so heavily for its security under the total force concept. My amendment is not complicated. It is meant to speak to very basic difficulties that have come to my attention, as basic as having a roof over your head and a warm place to park your vehicle.

We are all aware of the important role the National Guard and Reserve forces play in our military structure these days. The Army's cap on active duty personnel, set at 781,000 troops for several years now, is expected to continue.

I doubt if we will see many of our colleagues rushing to the Senate floor demanding to increase the number of active duty Army personnel because of the high costs associated with larger active force levels. When we factor in things like training, recruiting, housing, benefit programs, equipment, transportation, and a host of other costs involved with keeping a soldier on active duty, it becomes clear that

nobody is going to insist on creating new drains on the Federal Treasury.

Let us face it: The big defense issues in Congress these days are weapons programs like SDI, and how much we pay for hammers and toilets seats. So I share the sentiments of the experts who believe that the Army's cap of 781,000 active duty troops will be with us for some time.

Of course, this number is not sufficient to meet our troop needs in case this country must engage in a major war using conventional forces. The plan is that the shortfall will be made up with large numbers of soldiers to be called up from the National Guard and Reserves. Make no mistake about the degree to which we rely on the Guard and Reserve. By the end of next year, over half of the total number of troops at our disposal to go to the battlefield in time of war will be members of the Guard and Reserve. Over half.

This represents quite a change in the mission of the National Guard over the years. In the earlier years of this century, the Guard's main reason for existing was to meet the needs of the local populace at the direction of a State Governor. A primary mission was to respond to local emergencies. A guardsman could look forward to filling sandbags to hold back floodwaters, or help restore civil order or stop looting.

The Federal component of the Guard's mission did not develop until World War II. The Guard's State mission has never changed; it remains the same as it always was. However, the Federal mission has grown geometrically, and our dependence on the Guard for our national defense is as great as it has ever been, and it grows each day.

It is a very large step from making sandbags along swollen American rivers to high-technology battlefields in Europe or the Middle East. Yet that is the step for which the Guard has been required to prepare. It is a step that would have to be made very quickly in times of crisis with the security of the United States on the line.

Under the total force concept developed in the early 1970's, many Guard units have been assigned early deployment roles. The total force concept has generated substantial new or increased costs to the States that continue to grow. States are required to increase their troop levels and place a greater emphasis on retention. But that is only the beginning.

Of course, the expanded role of the Guard has necessitated an increase in the full-time manning of the State armories by Federal personnel. These personnel are known as the Active Guard/Reserve—AGR's for short. They are instrumental in performing the day-to-day preparation and readiness duties, coordinating training programs, troop personnel, equipment—handling the grab-bag of responsibilities inherent in keeping the Guard units ready to train and mobilize if need be. Let me emphasize that the AGR's are full time Federal personnel working on the Federal mission.

They include technicians to keep the equipment running and regular army staff as well. Their number has expanded to 31,000 nationwide, and that number will grow as the troop units expand and the Federal mission increases. Of course, the mere presence and activity of the AGR's for the Federal mission in a state armory creates costs—costs that are funded solely by the States. Under current law, States are responsible for 100 percent of the operation and maintenance [O&M] costs to run armories.

Obviously, it costs money to provide office space, operate the lights and the heating and the air-conditioning. We can all understand that office space, utilities, and the physical plant required to keep the AGR's on the job do not come cheaply. And again, these costs generated by the increased Federal mission are forced onto the State O&M budgets with no Federal contribution.

Another effect of the expanding role of the Guard is the increased need for storage. It is elementary that more soldiers require more equipment, and that means more storage is necessary. This is what I was referring to when I spoke of having a roof overhead. I have seen information from the General Accounting Office indicating that a $200 million backlog of storage sheds to house Federal equipment at the State armories exists. What does it mean to have a storage backlog? It means you stack field equipment on floors and in offices where troops are supposed to train or work. It means parking expensive vehicles or performing maintenance outside where the weather is hard on both men and machines. It means having a shabby, crowded, and disorganized system overall, and it affects the operational readiness of the forces. Once again, this problem will grow as the Guard's Federal responsibility grows.

Let us consider the ramifications of armory underfunding and the current lack of O&M participation from the Federal level. The ultimate result is that the limited O&M funds are being syphoned away to cover the increased operation costs and there is little or no money left with which to make major repairs. Even rudimentary day-to-day maintenance goes by the wayside when the O&M budget goes to paying the bills that come in each month. From the information I have seen, the maintenance funding for armories across the Nation is woefully inadequate to say the least. A 1985 study performed by the House Armed Services Committee staff showed that the backlog for maintenance and repair, known as BMAR, for armories in the 54 States and territories was a staggering $175 million. The staff report indicates that the armories are generally in poor condition, requiring a great deal of work to bring them back to acceptable levels of repair.

According to figures compiled by the National Guard Bureau, 1,194 armories, or 42 percent of all armories, are considered to be in inadequate condition. That bears repeating. Nearly half of the armories housing one-half of our Army troops are in inadequate condition.

If that is not bad enough, we have to remember that over 60 percent of all armories are over 25 years old with estimated life cycles of 50 years. It is these older armories that are in the majority, and they need the most repair.

In response to my request for information on the BMAR trends, the GAO sent a questionnaire to the States and territories this year to ascertain where the BMAR situation is going. The study has not yet been made public but I can release some preliminary figures. Of 36 States responding, 25 indicated that the BMAR of armories will continue to increase in the next 5 years. Compared to 1980, 23 States said BMAR is worse in 1985. Disturbing facts beyond the numbers came to light: For example, three armories in a Midwestern State were closed due to lack of O&M funds. A Northeastern State closed 5 armories to community use because they did not meet State fire codes. One adjutant general reported that his repair budget was cut by his State—to one-tenth of his request.

It seems to me almost unbelievable that such a major factor in the conventional military readiness of the United States is in such a shabby state of repair. Clearly, such conditions adversely affect our ability to recruit, teach, train, and retain personnel and maintain and mobilize equipment in a time of national emergency.

Mr. President, I have identified only a few of the funding problems that exist today and will worsen due to the expanding role of the National Guard in our military force structure. It boils down to this: The old notion that States should absorb 100 percent of armory O&M costs is completely out of step with the modern notions of the Guard's Federal role in the national defense. The inequities in the current distribution of funding responsibilities is having a direct impact on the Guard's ability to train for and carry out the Federal mission it has been assigned. That, my friends, is a situation that calls for the immediate attention of the Senate.

We must remember that States are not deep pockets nowadays. I know in

my State of Nebraska that economic difficulties have taken their toll on tax revenues, forcing harsh budget cuts and restrictions for many spending functions. I know the same situation exists in most other States, too.

How can the States afford to increase their armory O&M budgets to keep pace with the growing needs of the Guard when other functions are facing steep cuts? Why should they have to, especially when the increased costs arise, not from a benefit conferred on the State level or a commitment made by a State, but instead to enhance the Federal mission in a decision made on the Federal level to meet a Federal need?

I imagine that many of my colleagues are asking, "Where did this issue come from? Why have we not heard about this before?" I will say that I had no idea this situation was developing until about 1 year ago when I began taking a look at some other aspects of the National Guard, and what I was seeing convinced me that I had seen the bare tip of a class of problems that do not grab our attention or that of the media, yet represent a real threat to our ability to mobilize a sound and effective Army in the face of a major threat to the world's strategic balance.

The problem is of such a magnitude that it will be necessary for our congressional committees to take a hard look at National Guard funding in the coming months. It is my hope that my esteemed colleagues and friends on the Senate Armed Services Committee, who always render service of incalculable value to the Senate with their diligence and hard work, and who have my greatest respect, will propose a long-term, detailed solution in the coming months as they bring their resources to bear on those issues.

But in the meantime, we need to act now, today, to keep the national backlog on maintenance and repair from getting any larger. With hard work and a modest amount of funding now, and a more permanent solution to follow later, we can take a forceful step toward reversing this ominous trend, the wasting away of the National Guard infrastructure.

And I suggest that we do act immediately, on this continuing resoluton, because the money provided by my amendment is only a fraction of what it will cost to replace just a few old buildings with new ones. I will remind my colleagues that, while the States pay all the O&M costs for armories, the Federal share for building new armories to replace old ones is 75 percent. Our choice is clear; we can pay a little now, or pay a lot later. If you believe in cost-effective and prudent use of funds to boost our conventional military forces, you have to believe in the approach I am putting forth today.

This amendment corresponds with funding provisions already appearing in the House version of H.R. 3629, the DOD appropriations bill for 1986, which was incorporated by reference into the House-passed version of House Joint Resolution 465. The House added $33 million to be divided in this manner: For modification and repair costs for full-time Federal personnel office space—$6 million; for partial Federal funding for major repairs and restoration on armories—$7 million; for Federal funding to support armory operational costs related to Federal equipment and personnel—$20 million. The Senate Appropriations Committee version of H.R. 3629, now incorporated into the continuing resolution we are considering today, held the office space funding but dropped the $7 million for major repairs and the $20 million for operations funding.

My amendment simply adds to the Senate bill the funding for major repairs and operations support, at a total cost of $27 million that the House has already approved.

The amendment is not an add-on expenditure, but rather is budget neutral in that the funds are to be transferred from the Army National Guard miscellaneous equipment account. The relatively small cost of my amendment, transferring from an equipment account, would go a long way toward turning this situation around. If it is important to provide robust funding for equipment, it seems clear that it is preferable to divert some of that money and ensure that there are well-maintained buildings in which to house it, that there are classrooms and training facilities where soldiers can be properly taught how to use it, and the list goes on. It seems senseless to procure a new piece of equipment and then house it in a building with a leaky roof.

Under my amendment, and in accordance with the House language, these funds would be distributed to the States by the chief of the National Guard Bureau in his discretion as to where the money would be most needed. I want to make it clear that this is not a pork-barrel amendment in any way, shape, or form. It certainly is not a Nebraska amendment. There is no guarantee that any of this money will come to my State, although I know of some leaky roofs in Nebraska, too. However, every State in the Union is eligible to receive money under my language, with one caveat. The purpose of this legislation is to reduce the backlog of maintenance and repair that has developed. It is meant to supplement the strained State budgets in this regard, not replace them.

The States should continue their present commitment to O&M funding, and not cut back their funds in anticipation of new Federal funding. Cutting back would only maintain the status quo, which is clearly unacceptable. Therefore, no State may receive money under this provision if it reduces its O&M funding for armories in fiscal year 1986 below the 1985 level. This language actually encourages and rewards States for continuing their commitment to armory funding, which provides a tangible benefit to Federal interests.

Mr. President, in another time we could debate the pros and cons of the total force concept and all it means for the Guard and Reserve. The point I make here today is that it is a major aspect of our military force structure, and we must be prepared to put the money into the system to make it work. It is not in America's best interests to hold to outdated divisions of financial responsibility when the sacrifice we make to preserve the status quo is the security of the Nation and the assurance that we are taking all reasonable steps to make a difficult system work in times of crisis.

As I said, there is no pork in this plan, there is no gold plating in having a roof that holds out the rain, doors that open wide enough to let equipment in and out of a storage shed, or a decent shelter in which to work and train. We have brought the National Guard into our force structure as a full and equal partner as far as mission is concerned; we need to bring it in as a full partner in other areas as well, certainly to the extent that it is able to perform the Federal mission it has been assigned. Who can dispute that we are responsible for giving the Guard the assets with which it can perform the tasks we have declared to be vital to the national security?

Often the Senate is accused of overlooking the small details that shape the bigger issues, many times for good reason. Somewhere in the massive military buildup this country has experienced in the last several years, National Guard armories have fallen through the cracks. But we are lucky. We can still do something about that, if we act.

I ask that my colleagues join with me today in a badly needed, cost-effective ounce of prevention to restore the integrity of the National Guard infrastructure.

Mr. President, I ask unanimous consent to have a letter from Maj. Gen. James Carmona, adjutant general of the Nebraska National Guard, evincing his strong support for this amendment, printed immediately following my statement in the RECORD, and I urge passage of my amendment.

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

STATE OF NEBRASKA,
Lincoln, NE, December 6, 1985.
Honorable EDWARD ZORINSKY,
U.S. Senator—Nebraska,
Washington, DC.

DEAR SENATOR ZORINSKY: Your initiative and leadership in generating legislation at the National level for federal funding support for National Guard facilities in the States is truly commendable.

A definite strain has been placed upon Nebraska in attempting to support DOD's concept of military readiness where more emphasis is being placed upon the role of the National Guard and other Reserve Components.

Nebraska's federally funded fulltime personnel have increased from 594 in FY 82-83 to 858 by 1 February 1986. Although this increase in fulltime manning is proving to be a benefit to enhancing the readiness of the Nebraska National Guard, it has created a strain on the existing State facilities. Modifications to armories need to be made in order to accommodate this increase in personnel and additional federal equipment. However, the resources of Nebraska are limited and it would result in a fiscal hardship for the State to divert more dollars to the operation, maintenance, and modification of our armories.

State facilities have reached the age where major repairs are needed. Major maintenance and restoration is very much required for all of our State National Guard facilities.

The State of Nebraska can effectively utilize the proposed federal funds. I'm sure my position represents the feelings of all State Adjutants General.

Your efforts are truly laudable and very much appreciated.

Sincerely,

JAMES CARMONA,
Major General (Nebraska),
The Adjutant General.

Mr. ZORINSKY. Mr. President, I would like to address the Senator from Alaska, Mr. Stevens, the distinguished chairman of the Appropriations Subcommittee on Defense, regarding my amendment to transfer $27 million in House Joint Resolution 465 to provide operations and maintenance funding for National Guard armories.

As the Senator knows, my amendment corresponds with similar provisions adopted by the House Armed Services Committee in H.R. 3629 and later incorporated in the House version of the continuing resolution. I know that his subcommittee considered the $27 million transfer of funds, and rejected them. Is that a fair assessment of the situation?

Mr. STEVENS. Yes; it is. Although I share the concern of the Senator from Nebraska, about the readiness of our National Guard forces and the ability of some units to fulfill the mission assigned to them, I am concerned about what the Federal role should be in resolving the operations and maintenance dilemma.

Mr. ZORINSKY. I understand the Senator's concern. However, it is my opinion that the countrywide backlog of maintenance and repair on Guard armories is so large, getting larger, based largely on the expanded Federal mission they are required to execute, that we must act very soon to reverse the ominous trends I outlined in my statement. I do not know what policy the Senate will ultimately decide to employ as a long-time solution to the high BMAR levels. But I feel very strongly that the funds I am requesting today would provide a good interim remedial measure to prevent the problem from getting worse while those policy decisions are being made.

On the other hand, I understand the feeling of the Senator from Alaska with regard to the upcoming conference with the House. Of course, I am eager to assist in his efforts to present a strong Senate positon in the conference. Also, I feel that we need to expedite the Senate's action on this continuing resolution if we have any hope of dispensing with this legislation in any reasonable period of time.

Therefore, I am prepared to do my part to speed up the process by withdrawing my amendment and obviating the need for a prolonged debate and a vote, if I may have your assurance of consideration when this matter comes for debate in the continuing resolution conference. May I have your assurance thereto?

Mr. STEVENS. Let me say that I appreciate the good cooperation and desire of the Senator from Nebraska to move things along. If he will withdraw his amendment and let us take this issue to the conference as currently provided for in the Senate version of the continuing resolution, I will be pleased to ensure that his positon will be well represented in conference and we will give every reasonable consideration to the House position.

Mr. ZORINSKY. That assurance is acceptable to me. The Senator from Alaska is always true to his word, and I will be pleased to act on this assurance of consideration in the conference.

Mr. President, I ask unanimous consent that I be allowed to withdraw my amendment.

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

AMENDMENT NO. 1369

(Purpose: to add funding for the William Howard Taft Home)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM] proposes an amendment numbered 1369.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the Joint Resolution, insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, the amount "86,220,000" on page 13, line 13, of H.R. 3011 as reported by the Senate Committee on Appropriations on September 24, 1985, shall read as follows: "87,070,000", and of which not less than $850,000 shall be expended for the William Howard Taft Home.

Mr. METZENBAUM. Mr. President, this is an amendment having to do with funding of a lesser amount than that provided in the House bill for the William Howard Taft Museum Home in Cincinnati. It is $850,000. It has been cleared on both sides of the aisle.

I ask for adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. McCLURE. Mr. President, we have looked at the amendment. We have tried to be very careful to calculate what is the next reasonable and responsible step in the renovation. We believe $850,000 is adequate to do that.

I have no objection to the amendment in that sum.

Mr. JOHNSTON. Mr. President, we have looked for every possible means to object to this amendment. Finding none, we are reluctantly going to let it go by. [Laughter.]

Mr. METZENBAUM. I want the Senator from Louisiana to know how much I appreciate all of the support and assistance which he has given me in connection with this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 1369) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1370

(Purpose: To amend the Foreign Assistance Act of 1961 to provide special assistance to combat terrorism in Central American countries)

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The bill clerk read as follows:

The Senator from Indiana [Mr. LUGAR] proposes an amendment numbered 1370.

Mr. LUGAR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 51, after line 14, add the following new title:

TITLE II—CENTRAL AMERICAN COUNTERTERRORISM AND LAW ENFORCEMENT PROFESSIONALIZATION ACT OF 1985

SHORT TITLE

SEC. 201. This title may be cited as the "Central American Counterterrorism and Law Enforcement Professionalization Act of 1985".

SPECIAL ASSISTANCE TO COMBAT TERRORISM IN CENTRAL AMERICAN COUNTRIES

SEC. 202. Chapter 8 of part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 577. SPECIAL ASSISTANCE TO COMBAT TERRORISM IN CENTRAL AMERICAN COUNTRIES.—(a)(1) of the funds authorized to be appropriated for the fiscal year 1986 by section 575, not to exceed $21,000,000 shall be available only to combat terrorism in Central American countries.

"(2) Except as otherwise provided in this section, for the fiscal year 1986, Costa Rica, El Salvador, Guatemala, and Honduras are authorized to receive assistance under this section.

"(b) If the President determines that a country receiving assistance under this section is using such assistance to engage in acts of torture, the President shall terminate such assistance to such country.

"(c) The provisions of paragraph (2) of section 573(d), authorizing United States Government personnel to advise on antiterrorism matters outside the United States, shall apply to assistance provided under this section, except that the limitation of thirty consecutive calendar days shall be extended to ninety consecutive calendar days for purposes of this subsection.

"(d)(1) Except as otherwise provided in this subsection, the provisions of paragraphs (1), (3), and (5) of section 573(d) shall not apply to assistance furnished under this section.

"(2) To the maximum extent practicable, training services provided under this section shall be conducted in the United States, and no funds may be obligated for any such training service to be performed outside the United States unless the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives are notified fifteen days in advance of such obligation. Each notification of any such proposed obligation shall specify—

"(A) the nature and purpose of such proposed obligation; and

"(B) the reasons why it is not feasible or desirable to conduct such training services in the United States.

"(3) None of the funds made available for assistance under this section shall be provided by or through any intelligence agency of the United States, and no personnel of any such intelligence agency may participate in the provision of assistance under this section except to the extent the participation of such personnel is directly related to antiterrorism training provided under this section and conducted in the United States.".

RESTRICTIONS ON ASSISTANCE

SEC. 203. Section 577 of the Foreign Assistance Act of 1961, as added by section 202, is amended by adding at the end thereof the following new subsections:

"(e)(1) No assistance under this section may be made available for any country until the President prepares and transmits to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report stating that—

"(A) the security forces of such country are not engaged in systematic human rights violations, and the leadership of these forces are committed to eradicating all human rights violations within their respective forces;

"(B) the government of such country is making substantial progress in creating law enforcement and judicial systems which promote and encourage the investigation and prosecution of criminal acts;

"(C) any assistance, including training, will achieve the purpose of professionalizing independent law enforcement agencies; and

"(D) such country has submitted a formal written request to the United States for such assistance.

"(2) For purposes of paragraph (1), the term "human rights violations" includes the use of torture, incommunicado detention, detention of persons solely for the nonviolent expression of their political views, and prolonged detention without trial.

"(3) No funds under this section may be obligated or expended for any country on or after July 1, 1986, unless the President on June 30, 1986, prepares and transmits an additional report as described in paragraph (1).

"(4) Not later than March 31, June 30, and September 30, 1986, the Comptroller General of the United States shall 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 which—

"(A) describes the progress made by each country receiving assistance under this section toward achieving—

"(i) the elimination of human rights violations by the security forces of such country and a commitment by the leadership of these forces to an eradication of all human rights violations within their respective forces,

"(ii) the creation by the government of such country of law enforcement and judicial systems which promote and encourage the investigation and prosecution of criminal acts, and

"(iii) the professionalization of independent law enforcement agencies, and

"(B) includes a determination as to whether any country receiving assistance under this section has engaged in acts of torture, abuse, or other physical, or mental harm of prisoners, during the preceding three-month period or the period since the date of enactment of this section, whichever is shorter.

"(f) In addition to the requirements of subsection (e) applicable to Guatemala, no assistance under this section may be available for Guatemala unless the President certifies to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that—

"(1) an elected civilian government is in power in Guatemala; and

"(2) the newly elected Government of Guatemala has demonstrated substantial progress—

"(A) in achieving control over its military and security forces;

"(B) toward eliminating kidnapings and disappearances, forced recruitment into the civil defense patrols, and other abuses by such forces of internationally recognized human rights; and

"(C) in respecting the internationally recognized human rights of its indigenous Indian population.".

TRANSFERS OF EQUIPMENT AND COMMODITIES

SEC. 204. Section 573(d)(4) of the Foreign Assistance Act of 1961 is amended—

"(1) in subparagraph (A), by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (D)";

(2) in subparagraph (B), in the text above clause (i), by inserting "(other than under section 577)" after "chapter";

(3) in subparagraph (C), by inserting after "this section" the following: "(other than equipment and commodities made available under section 577)"; and

(4) by adding at the end thereof the following new subparagraphs:

"(D) For the fiscal year 1986, articles on the United States Munitions List may be made available under section 577 only if—

"(i) they are small arms in category I (relating to firearms), ammunition in category III (relating to ammunition) for small arms in category I, articles in category IV(c) or VI(c), articles in category X (relating to protective personnel equipment), or articles in subsection (h), (c), or (d) of category XIII, and they are directly related to anti-terrorism assistance under section 577; and

"(ii) at least 15 days before the articles are made available to the foreign country, the President notifies the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of the proposed transfer, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act.

"(E) Not more than 10 percent of the value (in terms of original acquisition cost) of all equipment and commodities which are provided under section 577 to any country may constitute lethal commodities and equipment, and no shock batons or similar devices may be provided under section 577.".

COUNTERTERRORISM PROTECTION FUND

SEC. 205. The State Department Basic Authorities Act of 1956 is amended—

(1) by redesignating section 39 as section 40; and

(2) by inserting after section 38 the following new section:

"SEC. 39. (a) The Secretary of State is authorized to reimburse domestic and foreign persons, agencies, or governments for the protection of judges or other persons who provide assistance or information relating to terrorist incidents.

"(b)(1) There are authorized to be appropriated to the Secretary of State $1,000,000 for the fiscal year 1986 for use in reimbursing persons, agencies, or governments under this section.

"(2) Amounts appropriated under this section are authorized to remain available until expended.

"(c) Amounts made available under this section may be referred to as the 'Counterterrorism Protection Fund'.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 206. Section 575 of such Act is amended by striking out "$9,840,000 for fiscal year 1986" and inserting in lieu thereof "$30,840,000 for fiscal year 1986".

APPROPRIATIONS

At the end of section 101(j) in H.J. Res. 465, strike the period and add the following new language:

": *Provided further*, That in addition to amounts otherwise provided by this subsection, there are hereby appropriated

$22,000,000 to carry out title II of this joint resolution, except that such funds may not be made available for obligation for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance."

Mr. LUGAR. Mr. President, this amendment to the continuing resolution is comprised of a bill reported favorably by the Committee on Foreign Relations last Thursday which provides $22 million of counterterrorism assistance for the country's of Central America.

It includes $1 million for a witness protection fund to aid those providing information or other assistance against terrorist activity. The proposal arises from the urgent administration request for a counterterrorism funding for Central America. Our committee gave the request detailed examination during two open hearings, one closed briefing, and four business meetings.

At our final business meeting, a substitute for the administration bill was introduced by the distinguished Senator from Rhode Island, Senator PELL, and by me. After markup, the measure passed with a strong bipartisan vote of 15 to 1.

The committee has completed its activity on the bill and has completed a draft report giving details on our finding. We believe that the legislation meets the twin concerns of all Members. We resist as Americans attacks like those which slaughtered U.S. Marines, two other American citizens, and seven others at the Rosa Restaurant in El Salvador last June. We believe that the culprits should be apprehended. We believe that democratic governments should have the means to do this.

The legislation is designed also to ensure that the program meets the requirements for both restoration and strengthening of human rights in each of the recipient countries.

We appreciate that a very careful balance must be struck.

Mr. President, let me simply state to you the question very candidly: We believe that in the Central American countries that will be recipients there are now democratic civilian governments. In the case of Guatemala there will be a democratically-elected civilian government by mid-January. We require specific reports from those government about progress on human rights issues. We have prohibited torture and indicated that if torture is found at any of those countries that are to be recipients, all aid to assist the reforms that we are calling for will be stopped.

There is a number of prohibitions with regard to specific instruments of violence and torture that could be sent to those countries because we are cognizant of the history that is involved, of the sensitivity of the issue.

Mr. President, we are also mindful of the fact that it is important that our friends in Central America have an opportunity to reform their police forces.

The argument is sometimes made that they cannot be trusted with that type of reform, but we would say, I suppose, as a committee in response, Mr. President, that we have weighed the evidence of governments that are attempting to fashion democratic institutions. Among those must be the preservation of law and order and respect for human rights, and with modest provisions of money at this time we believe that antiterrorism will be furthered.

We believe that legitimate police training and activities will be furthered.

Mr. President, I am hopeful that the body will accept this amendment at this time.

I ask for the Chair to recognize, if possible, my distinguished colleague, the ranking member of the Foreign Relations Committee, Senator PELL.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, this was a measure which we agonized over in the committee. This compromise may not meet the wishes of all of us nor completely meet the wishes of any of us, but what we sought was some measure to help these countries move in the proper direction, to try and wean their police forces away from the military umbrella, to try to give some support to these budding democracies.

We passed this in the committee after considerable discussion by a vote of 15 to 1. This was a resolution which gave me particular difficulty because I can remember years ago when we had the public safety program begun during the late fifties. Subsequently the Congress terminated that program in 1974 because of abuses by some of the very police personnel we had trained. Now we are told that it is a new age, a new time, and we believe that these countries have burgeoning democracies that need a little help and support which this measure would give.

I am reminded of Santayana's warning that those who forget the lessons of history are condemned to repeat them. In order to avoid that happening in this case, we wound around this measure several restrictions, restrictions which would require two Presidential certifications in the next twelve months and three GAO reports, as well as a variety of restrictions that apply throughout the actual text of the bill.

For example, we say that before any money under this bill can be given, to a country, there must be substantial progress demonstrated to achieving control over its military and security forces; toward eliminating kidnapings and disappearances, forced recruitment into the civil defense patrols, and other abuses. A special certification, identical to that governing military aid in the foreign aid bill, is also in place for Guatemala.

Mr. President, I believe that this paired down bill, with these restrictions on the assistance, represents a solid bipartisan compromise and I urge passage of this measure.

Mr. DODD. Will the Senator yield?

Mr. PELL. I yield for a question.

Mr. DODD. I will get the floor later.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, as chairman of the Foreign Operations Subcommittee of the Foreign Relations Committee, I want to point out to everyone that this is legislation on an appropriations bill. That is something we have been discussing back and forth for the last couple of days.

At the same time, I want to point out that this is legislation on an appropriations bill which I think is needed and necessary and which I support.

There are times, and I think we all recognize this, when we do have to work legislation authorization as well as appropriations on an appropriations bill and this is one of them.

I believe this is a good compromise from the Foreign Relations Committee, and I believe that the 15-to-1 vote indicates that it has strong bipartisan support.

The administration strongly supports this provision. This continuing resolution is the only vehicle whereby we could have it enacted.

The program is designed, as the chairman and ranking member have said, to combat terrorism, I might say increasing terrorism activity in Central America, and, therefore, time is of the essence. I believe we must go forward.

The Appropriations Committee has worked with the authorization committee and we believe that the Appropriations Committee is protected by a clause, which the authorization committee agreed to, requiring a 15-day notification so that we could have an additional hearing on this overall subject. That notification process is reflected in the amendment of the Senator from Indiana.

As chairman of the Foreign Operations Subcommittee I support this amendment, and I am authorized to say that Senator INOUYE has no objection.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I rise in support of this proposal. The provisions of it have been well-described and explained by the distinguished Senator from Indiana and the distinguished Senator from Rhode Island. I think it is worthwhile to point out a couple of additional pieces of informa-

tion for the benefit of our colleagues here today.

First of all, the original proposal as made by the administration called for the expenditure of some $57 million in this program. The proposal was originally submitted to us included very few, if any, restrictions at all on the expenditure of these funds and would have begun an open ended authorization that would have fundamentally changed what has been the historical position not only of this body but with regard to the other, in terms of the funding of so-called police training programs in Central America.

Those of our colleagues who have been here for a long period of time will recall that it was through a bipartisan effort that we restrained expenditures in these areas because of the significant and profound abuses that had occurred by the very security forces that we had been providing training for back more than two decades ago. In fact, it was these forces arguably that created some of the most serious problems that led to the unrest within the Central American region.

However, it was worthwhile to note that the administration proposal was submitted to the Foreign Relations Committee for a vote, that $57 million request, and that was rejected 16 to 1, again in a bipartisan fashion.

Again, people on both sides of the aisle felt that was far too excessive an amount of money. It had no restrictions and no reporting requirements in it at all, or very few. As a result of that effort and under the leadership of the chairman of the committee and the ranking minority member, we were able to fashion a compromise position that called for the expendire of $22 million, almost two-thirds of the amount requested. We provided some significant restrictions on how these dollars were to be spent. Most importantly, we added a provision which requires, as the Senator from Rhode Island points out, three reporting periods over the next 9 months by the administration for Congress to determine whether or not these funds are being spent for the kind of training and reform that is so essential.

It is a risk to support this program. I, for one, and I think I speak for many of my colleagues in the committee, did so with a great deal of reluctance.

The principal reason I think we were willing to support this particular program is the acceptance of the point that a central ingredient to ultimate reform in Central America will require that the security forces and the police forces of those countries be directly involved in those reform practices. To suggest that we are going to be able to change the climate in Central America, the political climate, in that part of the world merely through an electoral process would be to make a significant mistake. It will ultimately depend upon the security forces participating in those reform measures backing an electoral process and disengaging from the kind of significant human rights violations which have been perpetrated by these very forces over the last two decades or more.

This effort is a 1-year authorization, a 1-year appropriation, with those reporting requirements, with those restrictions. We shall be able to watch very carefully how these funds are being expended. If they are expended in an intelligent, thoughtful way, contributing to reform, then possibly we will have turned a very significant corner.

If they are not, we will know so, I think, in very short order and we will be able to take appropriate action in the coming fiscal year to restrain this kind of expenditure. But I believe on balance, the risk is worth taking, that it could contribute significantly to the kind of reform that is necessary, as I mentioned a moment ago, in that part of the world.

So, Mr. President, I, along with the majority of our side of the aisle on the committee, supported this proposition and we hope that the full body here will support this particular request, with the caveats and with the understandings that I have mentioned here this evening.

I yield the floor.

AMENDMENT NO. 1371

(Purpose: To prohibit the furnishing of any lethal commodity or equipment to Guatemala)

Mr. SIMON. Mr. President, I offer a second-degree amendment to the amendment. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. HARKIN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state the point of order.

The clerk must state the amendment first.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON] proposes an amendment numbered 1371 to amendment numbered 1370.

Mr. SIMON. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

At the end of the amendment add the following:

Section 573(d)(4)(E) of the Foreign Assistance Act of 1961, as added by the amendment, is amended—

(1) by striking out "(E) Not" and inserting in lieu thereof "(E)(i) Except as provided in clause (ii), not"; and

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

"(ii) No lethal commodity or equipment may be provided under section 577 to Guatemala.".

Mr. HARKIN. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Iowa will state the point of order.

Mr. HARKIN. Mr. President, I rise to make a point of order against the amendment offered by the distinguished Senator from Indiana [Mr. LUGAR] in that the amendment is in violation of rule XVI in that it contains legislation on an appropriations bill that has not heretofore been authorized by any standing committee of the U.S. Senate.

Mr. HATFIELD. Mr. President, am I being addressed by the Chair?

The PRESIDING OFFICER. The Senator from Iowa has stated his point of order.

Mr. HATFIELD. Mr. President, will the Senator yield for just one moment, withhold his point of order for just one moment?

Mr. HARKIN. I shall yield for a question or suggest the absence of a quorum.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HARKIN. Mr. President, I withdraw my point of order at this moment.

Mr. HATFIELD. Mr. President, this amendment offered by the Senator from Indiana is, indeed, a very important matter which I think all of us have to agree on. I indicated to the Senator from Indiana that we have had five rollcall votes on the question of either a point of order or a tabling motion and that there have been three other Senators who have withheld offering amendments because I have indicated I was going to rise, in just a routine manner, to challenge those amendments on a point of order without any criticism of the substance of the amendment.

I am sorry that the communication I should have extended to the Senator from Indiana had not been made. Now that he is clear on this, he would like to be recognized for the purpose of taking action on this amendment.

Mr. LUGAR. Mr. President, I thank the distinguished chairman of the Committee on Appropriations for his comment. Indeed, the communication was not sufficient and I apologize for that. Clearly, the Senator's point is well taken. I ask permission to withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right.

The amendment (No. 1370) was withdrawn.

Mr. DODD. Mr. President, will the Senator from Indiana yield?

Mr. LUGAR. Yes.

Mr. DODD. Mr. President, I am curious as to what the Senator made reference to, what would be the disposition of this matter since this amendment has been withdrawn.

Mr. LUGAR. I wish I could respond accurately to the Senator's question. I have simply been apprised of the fact that this is legislation on an appropriations bill. The distinguished chairman of the Appropriations Committee has pointed out several precedents here today. In order to be consistent with his activity, which I fully approve, he needs to act in this respect. It is an important matter that needs to be considered but in my judgment and the judgment of the distinguished Senator, this is not the time and the place to do that, so we will have to counsel together to find the next opportunity.

Mr. DODD. If the Senator will yield, is it the intention of the distinguished chairman of the Foreign Relations Committee, sometime before we adjourn for the calendar year, to bring up that opportunity?

Mr. LUGAR. I shall look for the opportunity with the leadership. As the Senator knows, this is considered an emergency for the subject country so I appeal to him to be of assistance.

Mr. SIMON. Mr. President, if the Senator from Indiana will yield again, I simply urge that if he is not aware of this amendment, I prohibit lethal equipment to be sent to Guatemala. I simply urge that he and his committee retain this part of his amendment. The reality is the new government—and we are pleased with the election there—is not going to be taking office until after the first of the year. We will have time after that to make judgments as to what they are doing, whether or not they should be assisted but I urge—and I see my distinguished colleague from Rhode Island—that we consider such an amendment.

Mr. LUGAR. I appreciate the Senator's comment. I assure him we will consider it.

AMENDMENT NO. 1372

(Purpose: To increase the appropriation for the United Nations Environmental Program)

Mr. PELL. Mr. President, I send an amendment to the desk and ask that it be immediately considered.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] proposes an amendment numbered 1372.

Mr. PELL. I ask unanimous consent that further reading be dispensed with.

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

The amendment is as follows:

At the appropriate place in the bill, add "for fiscal year 1986, there are appropriated $9,000,000 for United Nations Environmental Program."

Mr. PELL. Mr. President, this amendment restores the United Nations Environmental Program—UNEP—to the $9 million that the House has approved for it from the $3 million figure that it is cut down to by the Appropriations Committee. This is similar to the amendment I introduced several days ago calling for a larger amount. This is being introduced in accordance with the understanding I have with the managers of the bill. This is a measure that I believe is a necessary one so that UNEP can continue doing its excellent work. I am delighted that the chairman of the appropriations subcommittee, the Senator from Wisconsin [Mr. KASTEN] now supports it. I trust that it may be supported in future years as well. My understanding is that it has been cleared on both sides.

Mr. KASTEN. Mr. President, this is a program that is very important. It is a program that I believe the Senate on both sides has strongly supported in the past. I was prepared to negotiate this item in conference, but I agree with the distinguished Senator from Rhode Island that it would be appropriate for the Senate to speak on its own and for us to increase the amount for the United Nations Environment Program. Therefore, I accept the amendment, and I hope that it will be passed.

Mr. JOHNSTON. Mr. President, the amendment is acceptable on this side.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1372) was agreed to.

Mr. PELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1373

Mr. PELL. Mr. President, I have an amendment which I send to the desk on behalf of my colleague, the junior Senator from Rhode Island [Mr. CHAFEE].

This amendment guarantees that Rhode Island, Hawaii, and the District of Columbia have access to section 1516 funds of the Public Health Service Act under the continuing resolution.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL], for Mr. CHAFEE, proposes an amendment numbered 1373.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 33, line 11, add after the period the following new sentence:

"Sums appropriated by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1986, for the award of grants under section 1516 of the Public Health Service Act may be used for grants under that section to State agencies that were authorized to receive grants for fiscal year 1982 under section 935(b) of the Omnibus Budget Reconciliation Act of 1981: *Provided*, That no sums may be obligated under the authority of this sentence after the date upon which a law is enacted to extend the authority to appropriate amounts to carry out title XV of such Act."

Mr. PELL. Mr. President, this amendment which corrects an unfair treatment of Rhode Island, Hawaii, and the District of Columbia, has, I believe, been cleared on both sides of the aisle. I hope it will pass.

Mr. HATFIELD. Mr. President, may we see a copy of that on our side, please?

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side.

Mr. HATFIELD. Mr. President, the amendment is cleared on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1373) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1374

(Purpose: To direct the Army Corps of Engineers to undertake a salvage operation to protect critical habitat of certain endangered species)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. STAFFORD] proposes an amendment numbered 1374.

Mr. STAFFORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the resolution, add a new section, as follows, and number it appropriately:

"SEC. . Using available funds, the Secretary of the Army, acting through the Chief of Engineers, shall take immediate steps to remove the wreck of the "A. Regina" from the vicinity of Mona Island, Puerto Rico, unless the Chief of Engineers determines, after consultation with independent marine salvage experts and such other experts as deemed necessary, that removal of the vessel is not feasible for technical reasons, or the Fish and Wildlife Service and the National Marine Fisheries Service, in consultation with the Commonwealth of Puerto Rico and the Chief of Engineers, determine that removal of the vessel would cause greater adverse effect on the hawksbill turtle, green turtle, leatherback turtle, and loggerhead turtle, or their nesting or feeding habitat, than would occur leaving the vessel in place."

Mr. STAFFORD. Mr. President, this amendment would require the Secretary of the Army, acting through the Chief of the Corps of Engineers, to remove a shipwreck in the Caribbean that is threatening the nesting and feeding habitat of the hawksbill turtle, an endangered species. The amendment does not require an appropriation. It merely directs the Corps of Engineers to use existing funds to remove the wreck, unless the corps determines, after appropriate consultation, that removal is not feasible. I believe the amendment is acceptable to the managers of the resolution now before the Senate.

Mr. President, let me briefly review the events up to this point. On February 15 of this year, the *A. Regina*, a 335-foot, 4,000-ton ship, ran aground on a coral reef adjacent to Mona Island in the Caribbean Sea. The beach behind the reef is a designated critical habitat for the hawksbill turtle, an endangered species. The hawksbill uses the beach for nesting and the reef and lagoon for feeding. Mona Island is the most important habitat for this turtle in the Caribbean. Two other endangered turtle species and one threatened species also use this area.

Mr. President, the wreck is upwind and upcurrent from the beach and most of the reef. As it breaks up in the surf, debris from the wreck washes into the lagoon and onto the beaches. This debris—wiring, carpets, furniture, and other objects—impedes access to the beach for the turtles. They literally can get tangled up and die.

Also, the vessel is grinding up the reef, creating a sediment that is damaging and killing the coral some distance away. The turtles feed on sponges which inhabit the reef. Also, if the coral dies, the protecting reef will be destroyed and the seas will destroy the nesting beach itself.

Mr. President, I would like to insert into the record after these comments letters from the Fish and Wildlife Service, the National Marine Fisheries Service and the Commonwealth of Puerto Rico that describe the threat to the sea turtles posed by this wreck.

Since February, the Corps of Engineers, the Coast Guard, and the wildlife agencies have been in discussions about this wreck. No agency has been willing to take responsibility for its removal. This amendment would require the corps to take action because that agency has experience removing shipwrecks that pose navigation hazards. The corps may decide to leave the wreck in place if it determines that removal is not feasible.

Similarly, the Fish and Wildlife Service and the National Marine Fisheries Service may determine that removing the wreck would make matters worse. If so, the corps again would leave it in place.

Mr. President, this amendment is designed to force action to prevent an environmental disaster. It deserves the support of this body.

I might add, Mr. President, that this amendment is not intended to prejudice in any way any current or future legal actions against the owners of the vessel to recover costs or for any other purposes.

I urge my colleagues to support this amendment.

Mr. President, I believe the amendment is acceptable to the managers of the resolution now before the Senate.

Mr. HATFIELD. Mr. President, the Senator is correct. The amendment is supported, I believe, on both sides of the aisle.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 1374) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1375

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 1375.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 6, line 16, strike the number "$1,019,391,000" and insert in lieu thereof "$1,103,041,000" and on page 6, line 18, strike the number $1,419,451,000", and insert in lieu thereof $1,425,902,000".

Mr. HEINZ. Mr. President, this is an amendment that would add back the money to the Internal Revenue Service that the committee had originally proposed in its appropriation bill which was vetoed by the President. We are talking about therefore putting exactly the same amount of money back, $91,101,000, to restore the bill to what the original appropriation was. Of that amount, $83,650,000 goes for the processing of returns, $6,451,000 for compliance and collections.

The reason I bring this amendment before the Senate, Mr. President, is that we have had in this country what can only be described as an unmitigated disaster with the timely and accurate processing of income tax returns.

While I suppose there are some people in this body who would like to see tax rates higher, the income tax on both businesses and individuals still raises a very considerable amount of money—hundreds upon hundreds of billions of dollars. We are in jeopardy of undermining people's belief that the tax system can be operated, let us not even say fairly, let us just say semihumanely, with just a modicum of responsiveness.

We had people throughout the Nation trying to get through to the Internal Revenue Service to find out what happened to their income tax returns because the Internal Revenue Service changed this year to a new system of processing returns which, frankly, does not work very well. In fact, it worked so poorly at the Philadelphia regional service center that on one day so many people were trying to get through to the Philadelphia regional service center the entire phone service of the city of Philadelphia was nearly shut down, and well over half of it was shut down because of the overload.

For a period of weeks and even months, the typical taxpayer trying to get through to that center would not find it unusual to have to make 15 or 20 phone calls to the Philadelphia service center. On their lucky 15th or 16th phone call, they would then receive a recording saying, "Our phone lines are busy." The really persistent taxpayer, who might have been undaunted and chose to place another 15 or 20 calls, might have been fortunate enough to have a human being answer that call, who then might say, "I can't give you the information you request; the computer is down." And about one out of every four or five taxpayers

who actually did get through to a real live human being, having surmounted the busy signals and the answering equipment, might get information about the status of their tax return. In some of those instances—all too many, as a matter of fact—as they pursued the matter over the course of the spring and summer, they were told, "Please file a duplicate return, because we don't know what happened to your first one."

If that sounds like a chamber of horrors from the taxpayers' point of view, it was not a lot better from the standpoint of the employees who were under a quota system, part of a high-technology sweatshop, where the system was breaking down. But the quota of tax returns they had to process each day had to be achieved, irrespective of whether they were able to do a good job, or because the computer was out, or they did not understand what they were doing, or they were not trained properly because they were a new employee, or because they had an incompetent supervisor, like the first one we had at the beginning of this year, who ran the Philadelphia service center. If they were so unfortunate, they still had to process a number of returns, or else. You might say the returns had to get processed or it was their neck on the line.

Mr. President, this Senator is not going to sit back and let anybody tell me or anybody else that we do not need this $83,650,000 to help process returns. My office and the office of my colleague, Senator SPECTER, are not going to rest until we make sure that we do not have tens of thousands of unnecessarily and wrongly unhappy taxpayers in our home State of Pennsylvania.

We serviced some 5,000 individual taxpayers—5,000—during the course of 2 or 3 months. That may sound like a modest amount of case work to, say, the United Way, but we normally get about 300 cases a week. That works out to about 15,000 a year. To have 5,000 IRS cases puts an incredible burden not only on the taxpayer but also on our staff.

If you want to get an idea of how bad things were, I refer you to the GAO's November 1985 Report on Tax Administration, information on the IRS Philadelphia service center—God rest its soul—pages 32 and 33.

It got so bad that in April 1985, one of the janitorial employees found tax returns and remittances in a burn barrel because the employees were getting so frustrated. They found 109 envelopes which included 94 remittances for $333,440. That is what they found in one burn barrel—a third-of-a-million dollars, in one place, in 1 day.

Then, about 4 days later, on April 30, an internal auditor happened to be going past a wastebasket and reached into the wastebasket and took out four standard-sized brown remittance envelopes. In three of the four envelopes the internal auditor found nothing, and in one of the four envelopes he found a check to the Internal Revenue Service for $2,500.

If that were all there was to the problem, I suppose you might kind of gloss over all this and assume that they just had a bad week back in late April 1985. But the fact is that they had a bad year, as evidenced by the exhibits on page 32 in this compendium from the chamber of horrors called the Philadelphia service center of the IRS.

The taxpayers of this country, not just the Philadelphia region, literally cannot stand another year like the one they have just been through. They have been pushed around. They haven't been forgotten. Their legitimate requests have gone unanswered. Their refunds have been late. Late? Well, I had a town meeting in my home town of Pittsburgh just before the Thanksgiving recess. A very modestly, almost shabbily, dressed fellow who was seated in the front row came up to me and said: "Senator, I have a problem with the IRS."

I said, jokingly, "Well, I'll bet you have a refund problem. I'll bet you haven't gotten your refund check."

He said: "How did you know that? The IRS owes me $2,200. I filed back in January, and it is now November. What's going on with those people?"

Well, Mr. President, what is going on with those people is that they not only did not have the equipment, they also did not have the people, they did not have the trained people, they did not have the supervision, they did not have the system, they did not have the software, they did not have the wherewithal to do as fundamental a job as this Nation has to do; namely, to process its receipts intelligently. They did not have the wherewithal to come anyplace close to doing that job right.

We are all for economy. We all want to pinch the pennies, so that, as Andrew Carnegie said, the pounds will take care of themselves.

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

Mr. HEINZ. I am just getting warmed up right now with the Internal Revenue Service, but I will be with the Senator from Louisiana in a minute. I do not want my taxpayers to go through in 1986 what they went through in 1985.

If we do not get the IRS—they are not perfect, and they make mistakes—the personnel and the equipment they need, the term "tax rebellion" will be inadequate to describe what we are going to see from the taxpayers in 1986.

Mr. President, I ask unanimous consent that the name of Senator KERRY be added as an original cosponsor of this amendment.

The PRESIDING OFFICER [Mr. TRIBLE]. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, one last point: We talk about saving money around here, as I started to say a minute ago. In 1985—and this is through about the end of October 1985—the Internal Revenue Service incurred $41,848,530 just in interest penalties for failing to process tax returns on time—about half the amount of money we seek to restore. That number will grow substantially before the end of this year.

But one statistic we will not have is the statistic on people who have figured that the Internal Revenue Service cannot keep track of their tax returns, let alone process and calculate numbers in those tax returns. What we cannot begin to put a number on is the number of people who are going to underpay their income taxes on purpose and if they ever get caught they will simply say, "Well, can you find my return?" And the Internal Revenue Service will say, "Well, no." And those people say, "Well, I am sure my return was accurate and don't bother me until you find it."

Mr. President, I hope that my colleagues will support this amendment. I know that the chairman of the Appropriations Committee and the ranking member do not feel very comfortable about having had to cut this amount of money.

In fact, the committee report published on December 5, 1985 in the RECORD states:

> The committee is concerned that its proposals may have possibly adverse impact during fiscal year 1986. This committee, as well as several others, has spent considerable time and effort looking at the problems which faced the Internal Revenue Service during the 1984 tax filing season. All quarters have concluded that efforts must be made to insure that problems encountered during that time not be repeated.
>
> The committee wishes to stress that these reductions are not necessarily in the best interests of the Nation.

I could not have said it better. That is, I think, the best summation we could have from the committee.

I ask unanimous consent that Senator MOYNIHAN be added as an original cosponsor.

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

Mr. ABDNOR. Mr. President, I do not want to take a lot of the Senate's time, but I believe it is very important to clear the air as far as the Treasury appropriations bill is concerned. This has not been an easy year for any of us. We are all committed to reducing the budget deficit. The Treasury bill has been reduced at almost every stage of its rocky course in an effort to meet the requirements stated by the Budget Committee, the budget resolution, the Office of Management and Budget,

and the President. Yet each time adjustments are made to meet those requirements, a funny thing happens—the requirements change.

Mr. President, I believe that a chronology of the events in the hapless life of H.R. 3036, the fiscal year 1986 Treasury, Postal Service, and General Government appropriations bill.

Mr. President, I want to begin with the President's budget request which arrived way back in February. The President requested a budget of $12,068,246,000. This budget request was lean. Times were tough. Things had to be done. The President rose to the challenge. How did he do it? He zeroed out the revenue forgone postal subsidy. That would save $1.2 billion. Next he proposed to reduce the pay of Federal employees by 5 percent, and to reduce the U.S. Customs Service by 887 positions, saving $27 million. After one takes away the revenue forgone subsidy almost 85 percent of the Treasury bills discretionary spending is devoted to personnel costs. So one can see this move would cut spending considerably more.

The committee began its hearings soon after the Budget Committee began deliberations. Budget deliberations stalled, yet the committee continued its task of refining a bill before the fiscal year expired. Time became a problem and the subcommittee was instructed to make its bill conform to the Senate-passed budget resolution. We did.

Mr. President, in the meantime the Congress and the White House came to one significant agreement which impacted the Treasury bill. The 5 percent pay reduction would not be enacted. That led us to a good news/bad news situation. The good news—the reduction would not be made, therefore, a budget amendment totaling $143 million would be forthcoming. The bad news—working under the Senate passed resolution did not allow the subcommittee room to add all of the money back without breeching the Senate-passed resolution. What could we do?

Well, Mr. President, we have been used to juggling funds in this bill to meet its requirements. We did not believe we could cut law enforcement activities, and the reductions to the Customs Service did not make good sense. We restored the funds for Customs and provided the pay restoration in full to the Bureau of Alcohol, Tobacco, and Firearms and the U.S. Secret Service. We also added back about 50 percent of the pay reduction for the Internal Revenue Service. Why only 50 percent? That was all we could do without breeching the cap. We asked all of the other agencies in the bill to eat the 5 percent. We knew it wouldn't be easy but felt that we had to do what we could to keep the bill within the bounds of the budget resolution. The subcommittee had succeeded. The bill totaled $12,328,301,000.

Mr. President, that unfortunately was the only high point, if one can call it that, of H.R. 3036.

The next step was to go to full committee. The only major change was the increase of the revenue forgone subsidy from the $139 million total to $801 million. This increase was significant, but still one that could be lived with because the budget resolution had been passed and it included $748 million for the subsidy. It appeared as though H.R. 3036 would be acceptable. The bill going to the floor totaled $12,990,301,000. The Budget Committee crosswalk totaled $13,078,000,000.

Mr. President, this is when things got tough for H.R. 3036. The Appropriations Committee, which has always worked in terms of budget authority, was told that outlays is the new watchword. Mr. President, we were informed the Treasury bill exceeded the budget resolution in outlays by $123 million. In order to reach that total it would be necessary to reduce the bill by $139 million. How could this be done? A 2-percent across-the-board cut was the answer. Mr. President, I was most distraught. First, I thought the committee had done a good job in meeting our goal. Second, I did not think this reduction was a good choice. Why, Mr. President? This bill included the IRS, Customs, and BATF, the Nation's revenue collection agencies. Reducing them, it seems obvious to me, reduces revenues.

Mr. President, I don't want to say the Budget Committee does not understand this. In fact, the Budget Committee says that the IRS should be increased over the President's request by $24 million, bringing the IRS total to $3,627,000,000. Customs should be increased to $764 million, which exceeded the President's request by $46 million. The committee applauded that action because it certainly was the right step to take.

However, Mr. President, a problem arose. The resolution incorporated function 920 reductions, which, when applied to the Treasury bill, totaled $150 million. How is 920 applied? Administrative overhead is to be cut by 10 percent saving $45 million. One less working day would save $12 million and the bill, as all others, would effectuate a 4-percent rate of attrition in the work force, saving $93 million.

Mr. President, here's where the rub comes. The first two approaches were included in the President's original budget request which had already been incorporated in the Treasury bill. In effect we had a double scoring savings. Now, Mr. President, I can live with that. Everyone else has to also. But my problem comes with the 4-percent attrition requirement. The IRS and Customs make up 70 percent of the personnel in the bill, so in effect they should take that percentage of attrition. But wait, Mr. President, didn't the budget resolution say we should increase IRS and Customs? How can this be reconciled?

Mr. President, the Budget Committee decided that the committee had overstepped its bounds by not taking steps to incorporate the 4-percent attrition by urging the Senate to impose an across-the-board reduction of 2 percent on the Treasury bill. The debate stated that all of the authorizing committees had made the tough choices in order to meet the goals of the budget resolution, so the Appropriations Committee should work as hard to do the same. Mr. President, I believe and agree with that debate. However, I want to clarify a couple of things. The Finance Committee reached its goal, not by raising taxes, not by cutting programs, but rather by authorizing more funding and personnel for IRS and Customs. The proposed to add $46.5 million and 1,550 people for IRS and $27.9 million and 800 people for Customs. These increases were to provide an additional $2 billion in revenue collections.

Well, that certainly is admirable and I must say is probably in our best interest as a nation, however, I want to get back to the problem. The Budget Committee said we were exceeding our target, but the Finance Committee was right on the mark. Mr. President, I think the Senate may be beginning to see the irony. The 4-percent attrition would take a reduction of $144 million and 3,500 positions at IRS and $27 million and 750 people at Customs. The Treasury Department tells me it would cost at least $2 billion in lost revenues. By simply adding those together, it would appear that in order to get the Treasury bill in compliance with the budget resolution, and I might add one could certainly become confused as to the direction one is to follow to meet this goal, we would cut $123 million in outlays at the expense of not collecting $2 bilion in taxes. That is $2 billion, Mr. President.

Nonetheless, the Senate made the choice. H.R. 3036 went to conference with the House. The Senate bill was $450 million below the House-passed bill. Mr. President, now I want to stress that even though I did not agree with the Senate action, as a conferee I felt bound to stay with the Senate position.

Mr. President, the day before the conference began, I received two letters, one from the Department of Treasury and the other from the distinguished majority leader. I would ask unanimous consent that these letters be included in the RECORD at this point.

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

DEPARTMENT OF THE TREASURY,
Washington, DC.

Hon. JAMES ABDNOR,
Chairman, Subcommittee on Treasury, Postal Sercice and General Government, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you consider final action on the FY 1986 budget for the Department of the Treasury, I strongly urge that funding levels requested in the President's budget be adopted in conference for all Treasury bureaus, except for the Internal Revenue Service. This level has the approval of the Administration.

For bureaus other than the Internal Revenue Service, the Depatment's FY 1986 budget submitted to the Congress earlier this year was, in our judgment, the amount necessary to carry out our diverse responsibilities. It included only those items that were fully justifiable and essential to the accomplishment of our missions, and reflected substantial savings in productivity and streamlined administrative operations. Accordingly, we continue to support the President's budget request for all these bureaus. In total, the President's budget for these bureaus is below both the House and Senate approved levels.

We believe the $3.689 billion level approved by the House for the Internal Revenue Service is vital to provide for adequate tax administration in FY 1986. These resources are needed to restore a high level of quality in the Service and to assure an effective tax filing season. The $206 million reduction from the House allowance proposed by the Senate would jeopardize on-going efforts to revitalize tax processing capabilities and would reduce revenues at a time when they are critically needed. We encourage the conferees to identify reductions elsewhere in the bill to offset this increase for the Internal Revenue Service.

I greatly appreciate the continuing support provided by you and your Committee for Treasury progams during these difficult fiscal times. I ask that you give careful consideration to these issues.

Sincerely,

JOHN F.W. ROGERS,
Assistant Secretary of the Treasury (Management).

U.S. SENATE,
Washington, DC, October 28, 1985.

Hon. JAMES ABDNOR,
U.S. Senate,
Washington, DC.

DEAR JIM: I am writing to urge you to adopt the funding level for the Internal Revenue Service provided for in the House-passed version of the Treasury Department, Postal Service, and General Government Appropriation Bill. As Chairman of the Finance Subcommittee on Oversight of the Internal Revenue Service, I am very concerned that, if the funding level provided for in the Senate bill is adopted, taxpayers may again suffer from a breakdown in the processing of tax returns similar to the one that occurred this year. I am unsure whether our tax system can withstand another year in which the taxpayers' faith in the system is so severely challenged.

Perhaps even more important is that the Senate funding level would make impossible the $2 billion increase in revenues from enhanced tax compliance assumed by the budget resolution. Instead, the funding level provided for in the Senate would result in a revenue loss of more than $750 million in FY 1986 and $3 billion over four years.

We have enacted reforms in the compliance provisions of the Internal Revenue Code designed to make the cost of noncompliance higher and to make the possibility that the IRS will discover noncompliance more likely. But, in my judgment, we are reaching the point of significantly diminished returns from further substantive law changes in this area.

If we are going to reduce noncompliance, which costs the Government more than $90 billion per year in lost revenues, the most cost-efficient way to go about it is to provide the IRS with sufficient funds to administer the laws we have enacted. I might add that we have appropriated only about one-third of the funds necessary to cover the fixed costs of implementing the tax bills enacted in 1981, 1982, and 1984. These costs, such as revised and additional forms, new manuals, and new computer programs cannot be avoided. All that happens is that the IRS must reallocate available resources and can provide assistance to fewer taxpayers and examine fewer returns for accuracy. This, of course, allows compliance to deteriorate further.

The Administration's proposed budget for the IRS would have required a decrease of 4,800 positions according to the IRS. The Senate bill would require 4,000 additional positions to be cut. On the other hand, the House bill would require a decrease of 4,200 positions, compared with 1985 staffing levels. We should expect some gains in the efficiency of IRS computer systems, but we should be careful not to cut personnel more quickly than mechanical processing can be substituted. The processing disaster of 1985 should make this very clear.

I know that we all have heard the refrain that additional spending in one program or another will save many times the amount expended. I have been as cynical about this type of claim as anyone. However, I believe that if this argument has any validity anywhere, it certainly applies to the increased tax revenues derived from providing the IRS sufficient funds to administer the laws that we have enacted in an efficient and effective manner.

Sincerely yours,

BOB DOLE,
Majority Leader.

Mr. ABDNOR. Now, Mr. President, when the majority leader, who also serves as the chairman of subcommittee that oversees the IRS, supports an increase and the Treasury Department says that the administration also supports the higher funding level included in the House bill, my mind and the minds of the other conferees can be swayed. Knowing that it was the right move to make even though our action would bring back a bill that exceeded the budget target, we made it.

To cut a very long story a little shorter, I will take us instantly to the next step. The bill went to the President. I thought there was a good chance the bill would be signed. Unfortunately it was not. H.R. 3036 met an unceremonious end with a veto stamp.

Mr. President, in the President's veto message, he noted that the bill exceeded his budget by over $900 million and the budget resolution by $180 million. The main reason for the overage of the President's request was inclusion of $820 million for the revenue forgone subsidy and, of course, the IRS and Customs add-ons. The President did concede that even through he opposed the money for the revenue forgone subsidy that the budget resolution provided a funding level of $748 million, so in effect the additional $72 million was the objectionable part. The President also noted four objectionable language sections, one of which was included in his budget request.

Mr. President, there was no attempt to override the President's veto, so H.R. 3036 was rolled into the continuing resolution. The House chose to include the funding levels provided in the conference report, even though the Presidednt had noted that they were excessive. In an effort to meet the President's figure of $180 million, the committee chose to reduce the conference level by $162 million. Mr. President, I must point out here that the reductions came from the revenue forgone subsidy and the IRS. The IRS reduction lowered the bill total to approximately the President's fiscal year 1986 amended budget request. Granted, this does not go all of the way, but it leaves the bill only $18 million over the President's goal.

Oh, Mr. President, I truly wish that was the case. I must say that I was utterly shocked when on Friday last week the statement of administration policy on the continuing resolution came to the Senate. Guess what one of the objectionable parts of the resolution is? Why, it's the Treasury section—and why is it objectionable? Well, it is $108 million over the budget resolution.

Mr. President, numbers can oftentimes befuddle the best of us, but simple addition and subtraction has always been one of my strong points. Now, if one takes 180 and subtracts 162, what do you get? Granted, when I went to school we did not have calculators or computers or even new math, but I think even if we utilized the machines of modern science, you will find it totals 18. That is 18. So, if anyone can, will they kindly tell me how we reached 108?

Mr. President, I am sure the Office of Management and Budget will have some sort of explanation. I can't say that it will be rational or logical, but it will be an explanation that will most likely tickle one's imagination. However, Mr. President, the explanation is not the point of this entire statement. The point is that we have been shooting for a goal since this exercise began. The goal was to reduce the deficit and no one can take a backseat to me in that commitment. But it is extremely difficult to hit a supposedly stationary target when it moves after you thought you had hit it.

Mr. President, I am going to say one thing as I wrap this up. We may have hit a target, but I believe it is misdirected. We have had to reduce funding for the IRS. Now it is not easy to go home and say, hey, I just gave more money to the Internal Revenue Service, but it is necessary. There is no member of this Senate who does not remember the fiasco during last year's filing season. The Commissioner has told me it can happen again if he does not have adequate resources. Mr. President, the money in this resolution does not give him those resources. You may ask, how do I know? Well, Mr. President, any Senator can call the Director of OMB and ask him. The IRS has a supplemental request sitting on his desk for well over $200 million. It was sent to OMB shortly after fiscal year 1986 began.

Mr. President, it is time to stop playing games. This exercise has been the height of folly. We have a tax gap of over $90 billion. The persistence of those not paying hurts every other conscientious American citizen. We are making that problem worse, but we will be able to say one thing: the Treasury bill hit its budget target, but the question lingers in my mind—how does the Finance Committee reach its target without those additional resources?

TAXPAYERS ASSISTANCE AND THE TAX GAP

● Mr. KERRY. Mr. President, I support the amendment offered by my colleague from Pennsylvania.

In March of this year, during consideration of the first budget resolution, I offered an amendment expressing the sense of the Senate that the Internal Revenue Service should be provided with additional resources needed for increased and improved collection, audits, returns processing, examinations, and other steps designed to reduce tax cheating, and at the same time, to improve voluntary compliance with our tax laws. I was very gratified to see that amendment, which was the first that I had offered, accepted by a vote of 93-2.

Unfortunately, the message of that vote seems to have been lost on the present administration, which continues to insist upon cutting resources and personnel from the Internal Revenue Service. The administration apparently believes that such cuts will help cut the Federal budget deficit, when in fact all evidence points in the opposite direction—that such cuts actually increase the "tax collection gaps."

The funds which this amendment would provide to the IRS are needed to support those services which directly benefit the honest taxpayers of this country. It is the voluntary compliance of the vast majority of our citizens upon which the integrity of our entire system of tax administration rests. Yet without the resources needed to assist these honest taxpayers, and to process tax returns quickly and accurately, voluntary compliance will continue to decline.

Just over a decade ago, according to IRS estimates, 84 percent of all Americans voluntarily complied with our tax laws. By 1986, the IRS says that number will have dropped to 81.6 percent, and it will continue to drop until something is done to reverse the trend. Those who wonder about the significance of these figures should note that each 1-percent change in voluntary compliance is worth more than $5.6 billion a year in tax collections. In other words, if we had maintained the 1974 compliance rate—just voluntary compliance—we would today be collecting an additional $17 billion a year. That $17 billion is instead being added to the tax bills sent to the 80 percent of our most honest and law-abiding citizens.

What could we have done to maintain tax compliance at 1974 levels, and what can we do to reverse the current decline and move toward full compliance? To begin with, we can insure that the IRS has the revenues needed to do its job. Between 1976 and 1983, while the number of tax returns filed increased by 17 percent, the resources devoted to examinations increased by only 2 percent. As a result, the share of returns examined fell from 2.6 percent to 1.67 percent. This represents a 29-percent decrease in individual audits and a 59-percent decrease in corporate audits.

Mr. President, I believe that given this serious deterioration in voluntary compliance, the level of support provided to the IRS will be inadequate even if this amendment is accepted. I strongly support this amendment, and I respectfully urge my colleagues to do the same.●

Mr. HATFIELD. Mr. President, I certainly applaud the remarks of the Senator from Pennsylvania. The only problem is he made them in the wrong forum. He should have made these remarks down at the White House.

I remind the Senator that this bill was vetoed by the President of the United States. He now seeks to add $92 billion or $92-plus billion back into the bill and in the working paper at the White House that was used for the veto message this was highlighted as being that much over the President's request.

Mr. HEINZ. Will the Senator yield?

Mr. HATFIELD. I am happy to yield.

Mr. HEINZ. This Senator has not looked over the working paper. I just read the veto message and the veto message does not make any mention of this.

Mr. HATFIELD. That is correct.

The veto message says we are $181 million or $182 million over the President's request level and that was broken down as to the working paper of the White House. This was one of the highlights where we were over. We were over precisely at this level which the Senator now seeks to restore. That is why I say the eloquence of the Senator from Pennsylvania should have been heard in the OMB office before they advised the President on this veto.

On page 13 of our report on this continuing resolution, the Appropriations Committee takes note and underscores the very points the Senator makes by saying that:

> The committee, as well as several others, has spent considerable time and effort looking at the problems which faced the Internal Revenue Service during the 1984 tax filing season. All quarters have concluded that efforts must be made to ensure that problems encountered during that time not be repeated.

The Senator has spelled them out in great eloquence.

The committee reluctantly took this action in order to meet the problem of the veto.

I also commend the Senator from Pennsylvania for when this bill was brought to the floor initially on September 26, 1985, the Senator voted with the losing side of this vote relating to the 2-percent, across-the-board reduction which hit at the IRS again that he is now seeking to try to restore. The Senator saw that early on. It was not just simply that that happened recently. That is the date of September 26.

But we went through that process beyond September. We found then when we sent that down to the White House, it was—by the way, we went into the conference with the House on that particular bill at about $400 million differential. We came out of it I believe somewhere around $180 million differential which was a fairly small percentage of the total bill.

But the President used that as the reason to veto the bill which he did on the basis of $180 million.

As I indicate to the Senator in that working paper, as we have been so informed, this was one of those component reasons for the veto message.

Therefore, I would only say to the Senator, as sympathetic as we have already proven ourselves to be by actions and not just words as far as Appropriations Committee recognition of the problems that he brings up here, we have done everything we could possibly do and we have failed by the fact of the President's veto.

I do not want to cut the Senator off. I am, therefore, required by the very situation we face here to move to table the Senator's amendment, not in any way being unsympathetic, being fully sympathetic, but just having to face the realities of getting the signature.

Mr. HEINZ. Mr. President, will the Senator yield before making the motion?

Mr. HATFIELD. Yes.

Mr. HEINZ. I understand his position.

First, let me say that I am well aware of the committee's concerns and the chairman and I have both put the same statement of this committee's concern into the RECORD. And I know the committee and the chairman feel that way.

I have to say—and I do not say this to reflect any criticism on the committee or any member of the committee or on the chairman or the ranking minority member—it makes me feel sad when we say that we are about to go through an exercise which is going to result in bad public policy, shortsighted public policy, policy that is going to cost us more than it saves us.

For that reason, I must say it is disappointing that the veto message did not spell out exactly what the President's problems were.

It is really not very helpful to the country to be vague in the specification of what one's veto message is all about and not release to the public a working paper.

There is a working paper down at the White House right now I understand for a $300 million supplemental for the Internal Revenue Service.

Mr. HATFIELD. That is right.

Mr. HEINZ. So we are here playing a game. I just do not want to be a part of that game. The Senator was kind. He said I should have been down there in the Office of Management and Budget.

I was not invited. I would have been there if he had invited me.

Mr. HATFIELD. I was not invited either.

Mr. HEINZ. I do not want to play this particular game because my taxpayers all played that game this year and they all lost and they did not like it one bit.

So I thank the Senator for his courtesy and willingness to yield. Notwithstanding the very, very reluctant objections of the Senator from Oregon, I hope we can pass the amendment.

Mr. HATFIELD. I thank the Senator.

Mr. President, I now move to table the amendment offered by the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I ask for the yeas and nays on the motion to table.

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

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Oregon to lay on the table the amendment of the Senator from Pennsylvania.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from New York [Mr. D'AMATO], the Senator from Kansas [Mr. DOLE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from North Carolina [Mr. EAST], the Senator from Utah [Mr. GARN], the Senator from Arizona [Mr. GOLDWATER], the Senator from North Carolina [Mr. HELMS], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nevada [Mr. LAXALT], the Senator from Indiana [Mr. QUAYLE], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. STEVENS], and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Texas [Mr. BENTSEN], the Senator from Delaware [Mr. BIDEN], the Senator from Arizona [Mr. DECONCINI], the Senator from Ohio [Mr. GLENN], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY], the Senator from Louisiana [Mr. LONG], the Senator from Maine [Mr. MITCHELL], the Senator from Georgia [Mr. NUNN], the Senator from Arkansas [Mr. PRYOR], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Mississippi [Mr. STENNIS] are necessarily absent.

I also announce that the Senator from Florida [Mr. CHILES] is absent because of illness.

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

The result was announced—yeas 60, nays 11, as follows:

[Rollcall Vote No. 361 Leg.]

YEAS—60

Abdnor	Ford	McConnell
Andrews	Gorton	Melcher
Armstrong	Gramm	Metzenbaum
Baucus	Grassley	Murkowski
Bingaman	Harkin	Nickles
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pressler
Bumpers	Hawkins	Proxmire
Burdick	Hecht	Riegle
Byrd	Heflin	Rudman
Cochran	Hollings	Sasser
Cohen	Humphrey	Simon
Cranston	Johnston	Simpson
Danforth	Kasten	Stafford
Denton	Leahy	Symms
Dixon	Lugar	Thurmond
Dodd	Mathias	Trible
Domenici	Matsunaga	Weicker
Evans	Mattingly	Wilson
Exon	McClure	Zorinsky

NAYS—11

Bradley	Lautenberg	Roth
Eagleton	Levin	Sarbanes
Hart	Moynihan	Warner
Heinz	Pell	

NOT VOTING—29

Bentsen	Glenn	Mitchell
Biden	Goldwater	Nunn
Chafee	Gore	Pryor
Chiles	Helms	Quayle
D'Amato	Inouye	Rockefeller
DeConcini	Kassebaum	Specter
Dole	Kennedy	Stennis
Durenberger	Kerry	Stevens
East	Laxalt	Wallop
Garn	Long	

So the motion to lay on the table amendment No. 1375 was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1376

(Purpose: To prohibit use of funds to carry out any painting project by the Navy using paint containing tributyltin)

Mr. TRIBLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia (Mr. TRIBLE), for himself, Mr. MATHIAS, Mr. SARBANES, Mr. HEINZ, Mr. WARNER, and Mr. COHEN, proposes an amendment numbered 1376.

Mr. TRIBLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the joint resolution, add the following new section:

SEC. . None of the funds appropriated by this joint resolution may be obligated or expended to carry out a program to paint any naval vessel with paint known by the trade name of Organotin or with any other paint containing the chemical compound tributyltin.

Until such time as the EPA certifies to the Department of Defense that whatever toxicity is generated by Organotin paints is included in Navy specifications does not pose an unacceptable hazard to the marine environment.

Mr. TRIBLE. Mr. President, I offer this amendment on behalf of myself and Senators MATHIAS, SARBANES, HEINZ, WARNER, and COHEN. This amendment will help ensure the integrity of our marine environment by delaying the implementation of the Navy's Organotin fleet painting program until the Environmental Protection Agency certifies that the use of these paints does not pose an unacceptable hazard to the marine environment.

Why is this necessary? The very effectiveness of Organotin should give us pause. Organotin is an extremely effective antifouling paint because it is extremely toxic. It effectively kills barnacles and seagrass. The danger is that Organotin could also be lethal for

crabs, clams, oysters, and other waterlife.

How lethal? The short answer is no one can say with certainty. There is a desperate need for more data. We do not know what level of tributyltin concentration is destructive.

Lethality is only one unanswered question. We need more data on degradation of Organotins and their impact on marine life, on the flow of contaminated waters from Navy shipyards and berthing areas and on existing concentrations of TBT's.

We need to perform research to find the answers to these questions. Let me quote from a letter from the Environmental Protection Agency to Navy: "We have attempted to evaluate the Navy's proposed use of Organotin antifouling paints but have concluded that we do not have adequate date to determine whether this program would or would not have adverse impacts on the aquatic environment."

In other words, we just don't know. The use of Organotin is of special concern to Virginia'. The valuable marine resources of the Chesapeake Bay are in close proximity to the naval facilities in Hampton Roads. The oyster seed beds in the James River are only a few miles from the homeport of the Atlantic Fleet. These beds account for 90 percent of the oyster production in the lower Chesapeake Bay.

In addition there are major clam beds just across Hampton Roads from the Norfolk Navy Base and the major spawning area for most Chesapeake Bay blue crabs in just downstream near the mouth of the Bay.

Virginia, Maryland, Pennsylvania and the Federal Government are undertaking a massive bay cleanup program. We cannot jeopardize this effort by introducing unacceptable amounts of TBT into the bay.

But this is not only problem in the Chesapeake Bay. Organotin paints are widely used on commercial and pleasure craft and poses a potential risk to water life across America.

Mr. President, I ask unanimous consent that, letter from Charles Fox, the director of the Chesapeake Bay Project of the Environmental Policy Institute, be printed in the RECORD.

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

(See exhibit 1.)

Mr. TRIBLE. Mr. President, I want to acknowledge the expert assistance of Senator COHEN and WARNER in perfecting this amendment and point out that the Navy has proceeded in good faith. The Navy has met and exceeded the requirements of law. For that reason, the Navy had expressed concern about being singled out by this amendment when organotin is so widely used by private ships.

I want to underscore the Navy's good faith and emphasize that this paint is used around the world. Accordingly, the lack of scientific data and the potential risks to the marine environment demand a more comprehensive response on the part of the Congress than we are offering tonight.

EXHIBIT 1

SUPPORT AMENDMENT REQUIRING AN ENVIRONMENTAL IMPACT STATEMENT ON THE NAVY'S USE OF TOXIC BOAT PAINT IN CHESAPEAKE REGION

ENVIRONMENTAL POLICY INSTITUTE,
December 9, 1985.

U.S. Senate,
Washington, D.C.

DEAR SENATOR: Senator Paul Trible (R, VA) will be offering an amendment to the continuing Resolution which requires the Navy to prepare an environmental impact statement (EIS) on its proposed fleetwide use of highly toxic organotin (OT) anti-fouling paint. On behalf of the States of Maryland and Virginia, the Chesapeake Bay Foundation, the Clean Water Action Project, the Sierra Club and the National Audubon Society, we urge your support of the amendment.

The Navy recently performed an environmental assessment of its proposal and concluded with a "finding of no significant impact" based on its own admission of insufficient information on OT paint and its effect on the environment and public health. The U.S. Environmental Protection Agency (EPA) concluded: "we do not have adequate data to determine whether this program would or would not have adverse impacts on the aquatic environment." Among other comments, on August 20, 1985 EPA recommended that the Navy prepare an EIS on its proposed project.

In November 1985, the Navy stated that it will not prepare an EIS on the fleetwide use of toxic OT anti-fouling paint.

Though OT paints are currently registered with the EPA, recent studies have raised serious concerns about the acute and chronic toxicity of these compounds at very low concentrations. EPA is currently conducting a "Special Review" to re-examine the registration of this extremely toxic antifouling compound.

Senator Trible's amendment would prohibit the Navy's use of this paint in 1986 pending completion of an EIS. Given impending plans to begin application in the Chesapeake Bay region, it is only prudent that the Navy closely examine the potential grave consequences of its proposal.

If you desire more detailed information, please call. We urge your support of the amendment.

Sincerely,

J. CHARLES FOX,
Director, Chesapeake Bay Project.

ORGANOTIN ANTIFOULING PAINTS FOR MARITIME AND NAVAL APPLICATIONS

Organotin paints are routinely used on the hulls of pleasure craft and commercial shipping. We estimate 90 percent of commercial ships over 7,500 tons are painted with organotin paint, and over half of these (over 7,000 ships) use "ablative" formulations which renew the potency of the paint as the ship moves through the water.

Organotin paints, which are EPA-registered, can be purchased at any store carrying marine paints. In addition anyone can purchase high concentrate organotin solutions to mix with any marine paints. The only basis for commercial usage is paint life expectancy and cost, not the release rate of organotin

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

Mr. TRIBLE. I will, but let me yield briefly to my colleague from Maine.

Mr. COHEN. I thank the Senator for yielding.

Just so we place this in its proper perspective, and I think the Senator from Virginia in his most recent remarks has indicated this point, this particular amendment is not aimed specifically at the Navy, indicating that the Navy is engaged in some wrongdoing. As a matter of fact, it is just the opposite: the Navy has the best record of anyone in the world in terms of the use of this particular type of paint.

The problem is that about 90 percent of the worldwide commercial shipping fleets and an equal proportion of pleasure boats are painted with this particular organotin antifouling paint, and only 50 percent of the ships that use the more effective and less toxic copolymer paints, from which the Navy gets paint specifications, are, in fact, complying with existing regulations.

The Navy meets all EPA regulations. They go even further than what is required in the commercial field. This is not directed specifically at the Navy because the Navy is doing more than any other segment of the industry—commercial, pleasure, or, in this case, national security.

I would point out that the difficulty is what Senator Trible and others who have cosponsored this particular amendment have seen, that we need is a shotgun. Unfortunately, what we have here is a .22.

In view of the fact that the Navy has been setting a precedent for trying to reduce the toxic content of this type of paint and is far in advance of any of those others in the commercial or private field who also use the paint, it seems to me only fair that we introduce legislation, which Senator Trible and others hopefully will have this week, to apply this across the board.

We are not singling out the Navy. We are saying the Navy has been setting the leadership role in trying to conduct the studies and to make sure we have the lowest possible toxic content in this paint.

We are also saying that we are going to introduce legislation that will be applied across the board to all commercial use and all private boats that might be painted with this particular substance.

So this is merely the .22 shot that is being fired and it is not being fired in anger but, rather, in praise of what the Navy has done to date. What we are simply trying to do is to say that if there is indeed even a de minimis risk at this point which goes unidentified, we ought to delay for a few months until we satisfy ourselves that what the Navy is doing does not jeopardize marine and aquatic life, and what we are trying to do is to get at those creating a much higher level of toxicity.

That will be across the board in industry and private use.

Senator Trible will be joining me tomorrow in introducing such legislation.

Mr. President, I ask unanimous consent that the letter from the Secretary of the Navy be printed in the RECORD at this point.

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

THE SECRETARY OF THE NAVY,
Washington, DC.

Hon. PAUL S. TRIBLE,
Hart Office Building, Washington, DC.

DEAR SENATOR TRIBLE: We believe that there has been a tremendous amount of research conducted by the Navy and the paint industry on the use of organotin anti-fouling bottom paints, and that organotin paints produced to our stringent specifications and applied using the methods we developed and approved are both safe and extremely cost-effective.

Moreover, if there is some problem we have not foreseen, we naturally support any maritime-wide testing that might be required.

We estimate that 90 percent of the worldwide commercial shipping fleet, and an equal proportion of pleasure boats, is painted with organotin anti-fouling paints, and that only 50 percent of those ships use the more effective and less-toxic copolymer paints from which we derive our paint specifications. In fact, our paint specifications are far more stringent in terms of toxicity and release rates than any used by industry.

Consequently, if a need exists to lower the concentrations of organotin in the environment, we naturally assume that you would want to first lower the paint specifications used by the civilian community.

Please rest assured that if there were a maritime-wide need to lower the level below our current standards or eliminate the use of organotin anti-fouling paints, we would be the first to comply.

As always, I am committed to insure that the Navy meets or exceeds any environmental standards set by the federal or state government. I have enclosed a paper which gives you some more details on the use of organotin anti-fouling paint in maritime and naval applications.

Sincerely,

JOHN.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I commend my distinguished colleague from Virginia for taking the initiative on this amendment. It is a subject which he and I have followed closely because it impacts on the marine aquatic industry in our State, a very important segment of our economic base.

I also wish to thank the distinguished chairman of the Subcommittee on Seapower of the Armed Services Committee who joined with me tonight to redraft some of the early versions of Mr. Trible's amendment, such that we would protect, to the extent possible, all interests in this matter.

This amendment I hope will serve the purpose not only of preventing further fouling of the water possibly attributed to the Navy, but for an expeditious examination of this subject by the Environmental Protection Agency so that we can learn at the earliest possible date the ramifications of this type of paint.

The PRESIDING OFFICER. Does the chairman seek recognition?

Mr. HATFIELD. Have we disposed of the amendment?

The PRESIDING OFFICER. No. we have not.

Mr. HATFIELD. We accept the amendment on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1376) was agreed to.

Mr. TRIBLE. Mr. President, I move to reconsider the vote.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, we are down now pretty much to, I think, a few noncontroversial amendments that we would like to act upon. We have unanimous consent then to follow the leadership on restricting further amendments to a list that has been in the process of being refined by both sides.

I yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank the Senator from Oregon. I commend him and the Senator from Louisiana on their effort, their truly Herculean effort, which is obvious when we try to restrict the number of amendments, when we try to get a unanimous-consent agreement that is being circulated at this time. I think it discloses to this point how many amendments are processed—39 amendments. But that is all. There will be, I am sure, many of those that will drop away tomorrow. But that list is being circulated and will be presented shortly. I cannot guarantee, I think the chairman of the Appropriations Committee would concur we cannot guarantee there will be no more rollcall votes until we see the disposition of that unanimous-consent request which is being circulated.

AMENDMENT NO. 1377

(Purpose: To make a technical correction change in section 101(d) relating to the D.C. conference agreement.)

Mr. HATFIELD. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 1377.

On page 3, strike "law." at the end of Sec. 101. (d) and insert in lieu thereof the following: "law: Provided, that the appropriation for a federal contribution to the District of Columbia for the "Criminal Justice Initiative" under amendment number 2 shall be "$13,860,000" instead of "$14,010,000"."

Mr. HATFIELD. I ask unanimous consent that this amendment be in order modifying the Stevens amendment numbered 1348, agreed to this morning by voice vote. That amendment inserted the conference agreement just reached last week on the D.C. appropriations for the Senate-passed bill. This modification makes a necessary correction in that amendment. It is purely a technical amendment.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1377) was agreed to.

Mr. HATFIELD. I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1378

(Purpose: To provide $10,000,000 within the DOD budget for research development and acquisition of a parallel super computer processing system)

Mr. HATFIELD. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 1378.

At the end of the bill insert the following new section: "Notwithstanding any other provision of this joint resolution, out of funds available for Research, Development, Testing and Evaluation, Defense Agencies, within the Department of Defense, there shall be provided $10,000,000 for research, development and acquisition of a super computer with capabilities equal to or better than that of the Tesseract model parallel super computer system."

DARPA—SUPER COMPUTER ACQUISITION

Mr. HATFIELD. Mr. President, future breakthroughs in advanced computer science and engineering depends on the ability to develop what is referred to as parallel processing systems. Such a system is being developed and promise to be the fastest and most powerful computer ever built. Already DARPA, the Defense Advanced Research Projects Agency, is developing software for this system. Not only will this parallel processing system provide a major new asset for civilian and military science and engineering, but such an advanced system will assure that the United States stays ahead of foreign competitors in the super computer field.

This amendment will allow the department to provide for the acquisition of an early production model, or a model of equal or greater capability, of

what is currently known as the Tesseract system and build an appropriate staffing environment to demonstrate, as quickly as possible, the potential for significant scientific breakthroughs with the system. DARPA has been briefed on this system as has the White House science office which has expressed strong interest in the project.

Mr. President, this is an amendment relating to the processing system in the military that is developing software. It relates to $10 million that is not an add-on but merely designated within those funds.

This has been cleared on both sides of the aisle, Mr. President.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1378) was agreed to.

Mr. HATFIELD. I move to reconsider the vote.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1379

(Purpose: To authorize certain timber sales by the Secretary of the Interior)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon Mr. [HATFIELD] proposes an amendment numbered 1379.

At the end of the bill insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, in the event the sale, award, or operation of any timber sale or sales in the Medford (Oregon) District of the Bureau of Land Management is enjoined, stayed or otherwise delayed by reason of administrative appeal or judicial review, the Secretary of the Interior shall resell timber returned under provisions of the Federal Timber Contract Payment Modification Act to the extent necessary to achieve sale of the full annual allowable cut for Fiscal Years 1985 and 1986 in the Medford District. The Secretary shall determine the potential environmental degradation of timber sales returned pursuant to the Federal Timber Contract Payment Modification Act and shall characterize each sale's potential environmental impact as minimal, moderate, or serious. The Secretary must give resale priority to those sales with the least risk of potential environmental degradation. Sales that are reoffered may be modified, including minor additions. Any decision of the Secretary to resell such timber shall not be subject to judicial review.

Mr. HATFIELD. Mr. President, this is to provide an explanation and background for the implementation of this very important provision affecting not just the Medford, OR, district of the Bureau of Land Management but which affects potential Federal timber revenues to the U.S. Treasury.

The amendment which I am offering at this time is similar to a provision which was adopted by the Senate, and later by the House, this past summer. The provision assures that legal and administrative protests may continue against the administration and management of new Federal timber sales, in this instance the BLM. But to the extent that such lengthy battles enjoin or delay the supply of Federal timber to an area, the Secretary of the Interior is directed to maintain the full annual allowable cut by making available timber from the Federal Timber Contract Modification Program.

Mr. President, because these volumes of timber resold under the contract modification program have already gone through the administrative and legal review process, and because the pertinent legal questions surrounding timber management continue to proceed in the courts on so-called new timber sales, this provision specifically states that such returned volumes shall not be subjected to further judicial review and shall be sold in order to sustain the Federal supply of timber to area operators.

The reason this amendment is necessary, Mr. President is because within the next few weeks, or perhaps the next several months when Congress has adjourned, the 213-million-board-feet timber sales program in Medford may be challenged in the courts and, given the legal history in the Northwest, may be enjoined through a court restraining order. The effect will be quite serious. $16 million in annual timber revenue is received from the Medford Timber Sales Program, and 4,900 jobs will be jeopardized which translates into almost $79 million in annual salaries to the local economy.

Along with this explanation of the amendment, I would like also to acknowledge several important limitations which have been included as a part of this provision. First, this provision is limited to the Medford district of the BLM and does not authorize such sales in any other BLM or U.S. Forest Service district. Because of the complicated and unique environmental and managerial circumstances, it would be virtually impossible and unwise for Congress to approve such a widesweeping provision for all timber producing areas.

Second, the resale of such timber without further judicial review is triggered only after a law suit or administrative action has in fact enjoined or delayed the timber supply, and even then only a similar volume of timber may be reoffered in order to sustain the allowable cut. This provision does not leave it to the Secretary's discretion as to when reoffered sales may proceed, nor does it allow one delayed sale of, for example 9 million board feet, to authorize the reoffering of the full 213-million-board-feet sales program.

Third, Mr. President, the provision as earlier drafted was to remain in effect for fiscal year 1986 and succeeding years, but has been restricted just to the fiscal year sales programs.

Finally, the amendment continues the statutory requirement included in the provision last summer requiring the Secretary to characterize the potential environment impact of such sales as minimal, moderate, or serious and further requiring that resale priority be given to those sales with the least risk of potential environmental degradation.

I have approached this matter with a great deal of caution. It is not my hope for Congress to resolve all the many and complicated environmental and legal disputes which are being raised within the forest products industry at this time. Instead I encourage a continuation of negotiations between environmentalists, industry and land managing agencies and vest with them the responsibility for resolving the competing use issues. But if such negotiations fail, and if, as a result of such failure, local communities lose their economic base and jobs are threatened, I believe it is appropriate for Congress to intervene within appropriate parameters and limitations.

I thank my colleagues for their support of this amendment. As I have mentioned earlier, this provision is virtually identical to language which was enacted into law by Congress last summer.

Mr. President, this amendment has been cleared on both sides of the aisle. It is to bring into conformity the legislation that we have passed to the Senate relating to forest sales as it relates to BLM lands.

Mr. JOHNSTON. Mr. President, this amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1379) was agreed to.

Mr. HATFIELD. I move to recosnder the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1380

(Purpose: To provide funds for the construction of the Brigade Activity Center at the U.S. Naval Academy, Annapolis, Maryland)

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 1380.

At an appropriate place in the bill, include the following new section:

MILITARY CONSTRUCTION, NAVY

For construction of the Brigade Activity Center at the United States Naval Academy, Annapolis, Maryland, the sum of $16,600,000 is appropriated, as authorized by law, to remain available until September 30, 1990.

Mr. HATFIELD. Mr. President, I rise today in support of funding the construction of a Brigade Activities Center at the Naval Academy. This project, as requested in the President's budget and authorized in the fiscal year 1986 DOD authorization bill, will correct a serious deficiency at the Naval Academy by providing a facility capable of supporting the entire Brigade and staff.

The construction of an activity center is a project that is long overdue. If we are to help keep the Naval Academy competitive for recruitment of the highest quality students, we must make sure that its facilities are competitive with other universities. As my colleagues may know, the Navy Academy in Annapolis is the only military services academy that does not have a multipurpose building able to house the entire student population. West Point has the Eisenhower Center that was constructed 15 years ago at a cost of $33 million, and the Air Force Academy has an 8,000-seat auditorium that is too large and extensive to even use as a comparison. I believe it is high time that Congress allow the Navy to construct their own facility in order to enhance both its recruiting competitiveness as well as its educational capacity.

It is important to understand exactly what we are talking about in terms of the proposed usage of the Brigade Activity Center. I would like to point out that this facility in no way is analagous to a "student union" building that would serve only in a recreational capacity. It will not house pool tables, ping-pong tables, and the like. Instead, the Activity Center will provide for additional administrative office space; facilitate group meetings, seminars, clubs and briefings; and will provide seating for both formal and informal assemblies.

The Brigade Activity Center is essential to allow the seating of the brigade to provide the academic, professional and cultural programs needed to ensure a well-rounded education for our future Navy leaders. The Naval Academy enjoys a unique advantage in that it is located near Washington and is able to attract a variety of truly distinguished speakers. The Naval Academy, unlike other service academies, has no facility adequate to seat the entire brigade under reasonable acoustic or environmental circumstances, therefore, a great opportunity is lost.

Mr. President, this project has been a priority for the Navy for quite a long time. The need for a Brigade Activity Center has been recognized in three Navy studies, the earliest of which was conducted in 1948. Surely it is time to fill this need, of which the latest of the studies, completed last year, termed "a very necessary requirement for the Naval Academy, one which we consider to be the Number One priority."

Mr. President, this is an amendment that was adopted by the Senate in the military construction bill that went to conference. It relates to the Brigade Activities Center at Annapolis. What we are doing here is that was dropped in the conference with the House of Representatives. We are merely adding it back. It has been authorized and approved by all the committees and we are merely having another go at it with another conference with the House.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1380) was agreed to.

Mr. HATFIELD. I move to reconsider the vote.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1381

Mr. HATFIELD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 1381.

On page 37, after line 12, insert:

SEC. . Section 203(g) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 166), is amended, effective hereafter, to read as follows:

"(g) The Director of the Congressional Research Service will submit to the Librarian of Congress for review, consideration, evaluation, and approval, the budget estimates of the Congressional Research Service for inclusion in the Budget of the United States Government."

Mr. HATFIELD. Mr. President, this is another technical amendment, but let me explain the matter in a little more detail. At the present time, as we know, the Congressional Research Service is an integral part of the Library of Congress. The Congressional Research Service has submitted its budget in the past independently, directly to Congress. With the change in leadership of the CRS, with Mr. Gilbert Gude in the process of retiring, we felt this was a good time to provide that that budget which the CRS proposes each year merely be reviewed by the Librarian. This would merely make it subject to his review. Rather than having parallel budgets come to us, this would be merely a unifying amendment.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1381) was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1382

Mr. McCLURE. MR. PRESIDENT, ON BEHALF OF THE SENATOR FROM NEVADA [MR. HECHT], I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. HECHT, proposes an amendment numbered 1382.

At the appropriate place, insert the following:

SEC. . The approximately 21,600 acres of public land in Churchill County, Nevada covered by the Department of the Navy withdrawal application N-19622 of March 6, 1978 are hereby segregated until such withdrawal is acted upon by the Congress. Segregation shall be to the extent specified in withdrawal application N-19622 and shall not prevent compatible land uses which would be allowed under the terms of the proposed withdrawal. During the segregation period, the Secretary of the Interior may prohibit public entry and use of the lands for reasons of public health and safety.

● Mr. HECHT. Mr. President, I rise today to offer an amendment to the continuing resolution for the purpose of temporarily withdrawing the area known as Bravo-20 in Churchill County, NV, from public use. Bravo-20 is approximately 21,600 acres of public land that has been utilized by the Navy as a target and practice bombing range for over 40 years. Unfortunately, questions have surfaced recently over who actually controls Bravo-20, and the situation has become quite confusing. I am sorry to say, and I think it should be made clear, that while the debate continues over Bravo-20, the problem has become acute within the last 6 months.

I would like to illustrate, Mr. President, the seriousness of this situation. In July of this year, responding to a decision by the Secretary of the Navy which implemented a supersonic operating area within the Fallon range, citizens from Churchill County, NV, began camping upon Bravo-20 in pro-

test. Mr. President, no one in this Chamber or in this country would deny an individual the right to express his opinion, whether it be for or against something. But it should be pointed out, however, that these people were jeopardizing their own lives by camping upon a bombing target, surrounded by live, unexploded ordnance, subject to the very real possibility of being injured should an unexploded bomb accidently go off.

Mr. President, legislation to permanently withdraw Bravo-20 is currently being considered in the House and will be shortly in the Senate. The lateness of this session of Congress, however, makes it imperative that a temporary withdrawal be enacted. The amendment I am offering today would do just that. Until Congress has a chance to approve a permanent withdrawal of Bravo-20, I firmly believe it is in the public's best interest that this land be set aside. As a representative of the people of Nevada, I feel the present situation should not be allowed to continue, and strongly urge the adoption of this amendment.●

Mr. McCLURE. This amendment, I think, has been cleared on both sides, Mr. President. It deals with the temporary withdrawal of a portion of public land being used for a military reservation. There is a need to have the segregation on a temporary basis until we can legislate.

Mr. METZENBAUM. Will the Senator from Idaho yield for a question?

Mr. McCLURE. I shall be happy to yield.

Mr. METZENBAUM. This is a sort of surprise to me. I understand this is an agreement to withdraw some lands from a military reservation?

Mr. McCLURE. No, Mr. President, it is public land that is now being used as a military reservation under an improper legal or without a proper legal withdrawal. It is being used. There is a public safety question involved. We are trying to get that taken care of in legislation but we were unable to get the legislation cleared in time to do it. This would simply allow a temporary withdrawal before the legislation.

Mr. METZENBAUM. How big a parcel is it?

Mr. McCLURE. It is 21,600 acres.

Mr. METZENBAUM. Mr. President, I object.

Let me just address myself to the chairman of the Energy and Natural Resources Committee. This is a matter where we are not talking about a couple of small areas of land. We are talking about a fantastic piece of property, 21,600 acres. That may not be big in Idaho, but it is pretty big in Ohio.

In fact, that is the size of some of our cities. I do not understand what the sense of urgency is about in this matter.

Mr. McCLURE. Mr. President, this is an area that is used by the Navy as a bombing range, and you have people that are now trespassing on that bombing range for a whole variety of reasons. There is a public safety question involved when they do not have the legal authority because they have not properly exercised it in the past. There is a legal blemish on the withdrawal problem. If the Senator wants to get somebody blown up out there, just object.

Mr. METZENBAUM. I object.

Mr. McCLURE. It is just going to get somebody blown up out there. We need to protect the public health and safety until we can legislate.

Mr. METZENBAUM. Mr. President, I really think it is unfair to ask us to pass on this, this evening. It is a total surprise. I would ask my colleague to get unanimous consent to lay it over until tomorrow so we will have a chance to find out what it is all about.

Mr. McCLURE. Mr. President, I am not trying to railroad this through, and I have no objection to doing so, if I can offer it again tomorrow so the distinguished Senator can take a look at it, but there is a real need to do this.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right.

Mr. McCLURE. But I will say to the managers of the bill I reserve the right to offer it again tomorrow.

Mr. METZENBAUM. Certainly. And by that time we will have a chance to learn what it is about.

Mr. McCLURE. I thank the Senator for not objecting tonight, although I do really urge him to take a careful look at it. There is a real need for it.

Mr. METZENBAUM. We will take a look at it.

Mr. McCLURE. I will be happy to talk to the Senator about it before we offer it tomorrow.

AMENDMENT NO. 1383

(Purpose: To appropriate funds for capital improvements for roads and trails in the Mount St. Helens National Volcanic Monument)

Mr. McCLURE. MR. PRESIDENT, I SEND AN AMENDMENT TO THE DESK ON BEHALF OF THE SENATOR FROM WASHINGTON [MR. GORTON] and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. GORTON, proposes an amendment numbered 1383.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the joint resolution insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution or any other provision of law, $11,023,000 of the contract authority available in the Federal Highway Trust Fund and not otherwise appropriated shall be available to the Forest Service for road construction and related facilities to serve the Mt. St. Helens National Volcanic Monument, Washington: *Provided*, That the foregoing shall not alter the amount of funds or contract authority that would otherwise be available for road construction to serve any state other than the state of Washington.

Mr. McCLURE. Mr. President, this amendment deals with the paving of a road in the Mount St. Helen's National Volcanic Monument. We have discussed this amendment with the people on both sides of the aisle, the Energy and Natural Resources Committee, and the Environment and Public Works Committee. I very much appreciate the forbearance of the current occupant of the Chair, the distinguished chairman of the Environment and Public Works Committee, and the Public Roads Subcommittee chairman, my distinguished colleague from Idaho (Mr. SYMMS).

Mr. GORTON. Mr. President, the amendment I propose would add $11,023,000 from the Federal Highway Trust Fund for the Department of Agriculture's Forest Service to be spent for necessary road, trail, and recreational facility construction in the Mount St. Helens National Volcanic Monument.

The largest portion of this request, $9,000,000 is needed so that the Forest Service may proceed as soon as possible with extensive and necessary improvements to road 99, the primary tourist access road to the monument. In its present condition road 99 constitutes a significant safety hazard to the millions of visitors who have already begun to visit the monument. Visitors use road 99 extensively as it leads to Windy Ridge which is the only point inside the monument from which visitors are able to view the crater and the dome inside the crater. For much of its length, road 99 is unpaved and is often little more than one car lane wide. It winds along precipitous slopes without any guard rails. Left unimproved, road 99 presents a grave hazard to visitors if the road is not soon improved.

Already the Forest Service has experienced accidents along this road resulting from recreational vehicles and tour buses trying to navigate the narrow passageway. Improvements to this road are urgently needed to bring the road up to a forest development road standard—a paved, two-lane wide road—that can accommodate the heavy volume of tourist traffic to the monument and to foreclose the possibility of a traffic disaster.

My amendment adds $915,000 for road engineering and planning for future road construction. This money

will ensure that the road construction program for the monument proceeds on schedule with the development of the monument. This amendment also adds $778,000 to be spent for the construction of recreational and interpretive facilities such as campgrounds, picnic areas, spur roads into these areas and other necessary visitor facilities; and $330,000 be spent for the construction of trails into the monument. All of these specific improvements were identified in the Mount St. Helens Comprehensive Management plan. All are central to the recreation and interpretation programs that have been developed for the monument.

This amendment addresses the first phase in the capital improvement construction identified in the comprehensive management plan. This program will continue over the next several years. The Forest Service has planned future improvements to its road around the perimeter of the monument that will improve accessibility between the monument and other nearby attractions such as Mount Rainier National Park as well as Interstate 5, the primary north-south highway traveled by tourists. These improvements will create a loop around the monument, allowing the visitor to take advantage of all items of interest in the monument.

Mr. McCLURE. Mr. President, I would like to ask the Senator from Washington a few questions. Will my colleague from Washington explain whether there will be further appropriations necessary to complete the development of the Mount St. Helens National Volcanic Monument?

Mr. GORTON. I am happy to answer the question of my colleague from Idaho. There will be future appropriations requests until this Capital Improvement Program is completed. The long-run total north-south loop cost will be approximately $29 million. The next largest portion of this expenditure is scheduled for fiscal year 1987, $10.6 million and an additional $3.1 million will be needed in fiscal year 1988.

Mr. McCLURE. Is there any source of funding that could help to mitigate the future impact of this road construction program on the Interior appropriations?

Mr. GORTON. I appreciate the concerns of my colleague. These are large expenditures of money and I am committed to only seeking those funds which are necessary to develop the monument as a tourist facility that can provide adequately for the tourists to the monument. For future appropriations for road construction, I will try as I have in this amendment to offset the impact to the Interior appropriations by seeking some of the funding for this project from the Federal Lands Highway Program.

Mr. McCLURE. Will these appropriations requests also include requests for other facilities such as visitors centers and trails, and will the Forest Service receive any assistance from State and local governments?

Mr. GORTON. These appropriations will go primarily toward improvements to Forest Service roads. In some cases, the roads are owned in conjunction with the State. These appropriations requests will go toward only those portions of the road owned by the Forest Service. Where a local government shares jurisdiction for the road, a cooperative agreement will be pursued for a contribution to the Capital Improvement Program.

Funds for the Visitor Center have been appropriated and it is not anticipated that future appropriations will be necessary. On this project, we received over half a million dollars in contributions from State and local governments. There will be requests for trail construction to develop the recreation potential of the monument. These are not the type of expenses that State and local governments share as the trails will be located within the monument itself.

Mr. President, Mount St. Helens provides a rare opportunity for Americans to witness first hand the extraordinary geological and biological effects of an active volcano. The monument is already experiencing heavy tourist traffic. These visitors come from every State in the United States and over 40 countries. To assure the safety of these visitors, and to provide a meaningful recreational experience, the Forest Service needs to proceed with these improvements to the monument.

I seek only to ensure that funds be added to the Interior appropriations so that we eliminate the present hazardous condition of the primary access route to the monument—that we provide for the safety of the visitors to the monument—and that we proceed with development of Mount St. Helens as a unique and significant recreational facility. I urge my colleagues to support this amendment to House Joint Resolution 465 to include these funds so that the U.S. Forest Service may proceed with these important construction projects in the Mount St. Helens National Volcanic Monument.

Mr. McCLURE. With these assurances, I have no objection to the amendment and urge its adoption.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1383) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1384

Mr. McCLURE. Mr. President, I send an amendment to the desk on behalf of Senator HATFIELD and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Idaho [Mr. McCLURE], for Mr. Hatfield, proposes an amendment numbered 1384.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the bill insert the following new section: "Notwithstanding any other provision of this joint resolution, in the event the sale, award, or operation of any timber sale or sales in the Medford (Oregon) District of the Bureau of Land Management is enjoined, stayed or otherwise delayed by reason of administrative appeal or judicial review, the Secretary of the Interior shall resell timber returned under provisions of the Federal Timber Contract Payment Modification Act to the extent necessary to achieve sale of the full annual allowable cut for Fiscal Year 1985 and 1986 in the Medford District. The Secretary shall determine the potential environmental degradation of timber sales returned pursuant to the Federal Timber Contract Payment Modification Act and shall characterize each sale's potential environmental impact as minimal, moderate, or serious. The Secretary must give resale priority to those sales with the least risk of potential environmental degradation. Sales that are reoffered may be modified, including minor additions. Any decision of the Secretary to resell such timber shall not be subject to judicial review."

Mr. McCLURE. Mr. President, this amendment I believe has been cleared on both sides of the aisle.

Mr. METZENBAUM. Will the Senator be good enough to tell us what this amendment does?

The PRESIDING OFFICER. The Chair advises that this amendment has already been agreed to.

Mr. McCLURE. Mr. President, I was not aware that the Senator from Oregon had offered the amendment. Therefore, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right.

AMENDMENT NO. 1385

(Purpose: To assure that students residing in areas designated as natural disaster areas may qualify for Pell Grants for the academic year 1985-1986 even if the loss of income does not meet the regulatory requirements of the Pell Grant program)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] for himself and Mr. TRIBLE, proposes an amendment numbered 1385.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the joint resolution add the following new section:

SEC. . Notwithstanding any other provisions of this joint resolution or any other provision of law, any student residing in an area designated as a natural disaster area pursuant to a provision of Federal law may, if otherwise eligible for a Pell Grant under subpart 1 of part A of title IV of the Higher Education Act of 1965, qualify for a Pell Grant under such subpart without regard to the limitation on the loss of income in the calendar year in the determination of expected family contribution under such subpart.

Mr. BYRD. Mr. President, this amendment will offer some relief to students who may not otherwise be able to return to college because their parents have suffered a loss of employment due to the flood which took place during the first week in November. This amendment would allow students residing in areas designated as national disaster areas to qualify for Pell grants for the academic year 1985-86 without regard to the 10-week loss of income, provided that these students meet all of the other requirements of the law.

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1385) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank the managers on both sides for their support.

Mr. DOLE. Mr. President, inasmuch as I just missed four votes, I am proud to announce that there will be no more votes this evening.

There is no need to try to get an agreement when you have 40-some amendments floating around.

It seems to me that we have to decide among ourselves if we want to go home this week or next week or Christmas Eve. We are never going to make it at this pace. I think the better judgment would be to come in tomorrow morning, get on the bill by 10 o'clock, and start down the amendment list. Those the chairman does not want to take, I hope we will start tabling in rapid fire order. Table them all.

Those who want to go home will vote to table, and those who want to stay the next 2 or 3 weeks will vote not to table. It is all right with me.

As I understand the first consent agreement contained 3 amendments, and now they are still coming on, and there are 44, and rising.

MEDICARE DEDUCTIBLE INCREASE—KENNEDY AMENDMENT NO. 1350

Mr. BYRD. Mr. President, on January 1, 1986, the Medicare hospital deductible will increase 23 percent—to a record $492 out-of-pocket expense for a Medicare patient. It is clear that the method for calculating the Medicare "part A" deductible must be changed. The Kennedy amendment will temporarily delay imposition of this increase, so that the Finance Committee will have the opportunity to change the means of calculating the deductible. I support that portion of the amendment, and am pleased to join the Senator from Massachusetts in urging our colleagues to support it.

Mr. President, Medicare beneficiaries are now paying more out-of-pocket expenses for health care, as a percentage of their incomes, than were the aged prior to enactment of the Medicare Program in 1965. In 1965, elderly Americans spent an average of 15 percent of their incomes on health care. In 1984, Medicare beneficiaries averaged out-of-pocket expenses of 15 percent of their incomes—equal to the pre-Medicare days. This year, average spending again will hit that 15-percent-of-income level. With the scheduled 23-percent increase in the "part A" deductible, it will go higher.

This 23-percent increase will push the Medicare deductible far above the deductible levels in many private insurance plans. It will cause a hardship for many Medicare beneficiaries across the Nation, and for many of the 284,841 Medicare beneficiaries in West Virginia. And the hardship will be exacerbated by Congress' action this year on the "part B" deductibles for outpatient care and physician services.

A number of my colleagues and I tried to stem the "part B" increase earlier this year during our consideration of the budget. Thankfully—due in some measure to our efforts—the increase in the "part B" deductible included in the reconciliation bill that passed the Senate earlier this year is not nearly as Draconian at it would have been if the original Republican leadership provision had been accepted. Surely, while that provision was being debated, it was not known how it would be magnified by what the formula for determining the level of the "part A" deductible was doing out of sight.

The "part A" deductible increase which confronts us in January is an unintentional, backdoor increase. It is largely an unintended result of the establishment of the Medicare prospective payment system in 1983. Under this system, Medicare pays hospitals a fixed amount for each Medicare patient based on the patient's diagnosis, rather than reimbursing hospitals on the basis of the number of days of care provided and the fees charged for each service provided to the patients. This prospective system is designed to remove any incentive to keep Medicare patients in the hospital longer than necessary, or to provide them with more services than they need. In this way, the system is intended to produce cost savings in the Medicare Program—and so far it is having that effect.

But because the prospective system is decreasing the average length of stay, the average daily cost of each hospital stay is increasing faster than before. Since the Medicare "part A" deductible is based on the average daily cost of care, the deductible is increasing far more rapidly than if it were based solely on the overall increase in hospital costs.

It was not intended that the prospective payment system—as a side effect of saving Medicare funds by cutting back unnecessary treatment and unnecessarily long hospitalization—would act to dramatically raise the part A deductible. The result is a twisted circumstance where the more the average hospitalization episodes are reduced in duration, the higher the deductible climbs.

We must remedy this situation. For this reason I am hopeful we will have the opportunity to vote for that portion of the amendment of the senior Senator from Massachusetts that would delay the effectiveness of the increase now scheduled for January until April 15, to give the Finance Committee an opportunity to modify the formula in an appropriate way to avoid this tremendous increase.

For this reason, I voted against tabling the appeal of the ruling of the Chair.

GLENN AMENDMENT NO. 1347 ON UNITED STATES-CHINA NUCLEAR AGREEMENT

Mr. RIEGLE. Mr. President, I am pleased that the Senate has accepted the Glenn amendment which strengthens the safeguards provisions of the United States-China Nuclear Agreement. Had I been present, I would have joined the majority in voting against tabling this important amendment.

As submitted to the Senate, the United States-China Nuclear Agreement was deficient in important respects. It provided insufficient safeguards against the misuse of United States nuclear exports to China, and it

contained no requirement that China provide a detailed public statement describing its nuclear nonproliferation policies.

The Glenn language addresses those shortcomings by, among other things, requiring the President to certify that international safeguards or their equivalent will apply to United States nuclear exports to China, and that China has provided in writing, a detailed and public statement of its nonproliferation policies.

I believe the Senate has demonstrated sound judgment in requiring that the United States-China Nuclear Agreement be subjected to the standard used by the International Atomic Energy Agency [IAEA] for verifying the peaceful use of our exported nuclear materials or equipment. This is the same standard recognized by more than 100 nations, including all the nuclear weapons states.

The strong vote against tabling the Glenn amendment, demonstrates the belief of a majority of Senators that the pending United States-China agreement, with its $6 billion in potential nuclear trade benefits to this country, must not be allowed to erode ongoing United States efforts to prevent the proliferation of nuclear weapons.

Regardless of the potential nuclear trade benefits to this country, it would be unwise for us to enter into a 30-year nuclear agreement with China without guarantees that IAEA safeguards standards will govern verification.

While I welcome the improvement in United States-China relations and believe every effort must be made to increase bilateral cooperation, I believe that such a relationship must be based upon a clear understanding of the strong United States interest in safeguarding the nuclear materials and equipment it exports.

Finally, Mr. President, I want to commend the Senator from Ohio for his diligence in overseeing this critically important issue and for offering this important amendment.

NIOSH STUDY OF OCCUPATIONAL EXPOSURE TO DIOXIN

Mr. LAUTENBERG. Mr. President, the National Institute of Occupational Safety and Health is planning to study the health effects of dioxin in chemical herbicide workers. This will be an epidemiological study relating health to dioxin exposure. Exposure information on chemical workers is more detailed and accurate than on any other group that could be studied. A study using this population group will provide better data than has previously been available. I am particularly interested in this issue because most of the study population consists of former workers from a plant in New Jersey.

Because of the importance of this study, I was disturbed to learn that OMB has disapproved it. This seems to be part of a continuing pattern of opposition by OMB to data collection efforts needed for sound policy decisions.

The White House Agent Orange Working Group has reviewed the study design and supports it. The Environmental Protection Agency also supports the study, and will be providing funding assistance for it.

During the Senate Appropriations Committee markup of House Joint Resolution 465, the continuing resolution, the committee adopted report language expressing concern about OMB's action blocking this NIOSH study. The report states that—

> The Committee believes that the study should go forward without further interference from OMB.

I would like to ask the distinguished chairman of the Labor, HHS, and Education Appropriations Subcommittee, which has jurisdiction over NIOSH, if he agrees that the committee report language states the Congress' intent that this dioxin study should go forward without any further delays or objections from OMB.

Mr. WEICKER. I thank the Senator from New Jersey for his interest in this matter. I do agree that the committee intends for the NIOSH study to get underway as quickly as possible. We have been advised that the data from this study cannot be provided in any other way. Scientists who have been looking at dioxin and humans think that this is a much-needed addition to the knowledge of this highly toxic chemical.

I know that NIOSH has been planning for this study for several years. It does not appear that OMB has adequate justification for disapproving the study. Let me assure the Senator from New Jersey that my understanding is that the committee intends for OMB to let the dioxin exposure study proceed. I will be monitoring progress on this project. If there are further unwarranted delays, I will be pleased to join the Senator from New Jersey in considering action necessary to get the study moving as soon as possible.

BUILDING A DEFENSE THAT WORKS

Mr. CRANSTON. Mr. President, the legislation before us today contains $288 billion to fund the most essential obligation of the National Government: to provide for our country's defense.

I regret that the Senate will not spend more time on this measure. While I am not a member of the Armed Services or Appropriations Committee, where many of these issues have already been explored, I remain deeply concerned that we in this Nation are not getting adequate value for our defense dollar.

DEFENSE SPENDING AND NATIONAL SECURITY

More than 75 percent of all goods and services purchased by American taxpayers go for Pentagon programs. And nearly 30 percent of all Federal spending is on defense. Americans have a right to expect decisive improvements in our defense capabilities for these types of expenditures.

Yet these vastly increased defense expenditures have not necessarily resulted in improved strength. And today the Washington debate about defense remains too much a game of numbers. One is either for "more" or "less" defense spending; those who favor spending more money are presumed to be for a "strong" defense. Those who advocate restraint in spiraling defense costs are said to support unilateral disarmament by the United States.

Such rhetoric is irresponsible; this "numbers debate" obscures the real questions, for it fails to peel beneath the surface of the budget numbers to ask what are we purchasing with our defense dollars? It fails to address the question of whether our money is being spent wisely; of whether we are closer to achieving our purpose of making America safer, more secure, and less vulnerable to enemy attack.

In a similar vein, we must consider the role defense spending plays in our economic security and our day-to-day individual security. A nation which is militarily mighty but which cannot lend a hand in meeting basic needs of its own people is not truly strong. The current fiscal year budget deficit of $200 billion hurts every American; indeed, it threatens our national security by undermining our economy. If we fail to get our economy back on solid ground, we will leave our children a disastrous legacy of red ink: we will mortgage our future and the future of generations to come.

All parts of the Federal budget, therefore, require close scrutiny—social spending as well as defense spending. No area of Federal expenditure should be given carte blanche authority. Given the enormous percentage of Federal funds furnished to the Pentagon, we have a special responsibility to make sure our military expenditures meet our defense goals.

AGREEING ON A DEFENSE STRATEGY

How much we spend and what we purchase on defense presupposes an agreed definition of what our goals are. To provide for the national defense requires having an agreed strategy for dealing with possible threats to the United States and our allies.

Strategy is the calculated relationship of purpose and power. It involves choices within a framework of finite resources, and an ability to distinguish between the desirable and the possible, the essential and the expendable. The choices will not always be easy; they never are. A strategy whose goals exceed available resources for its implementation spells disaster. A sound

sense of priorities is the essence of sound strategy and nowhere is this more true than in the field of defense policy.

A sound defense strategy must have three basic components: An effective and ready conventional military force, a modern, credible nuclear deterrent, and an enduring commitment to negotiate mutual, verifiable arms reductions.

U.S. nuclear force modernization is proceeding apace. In the late 1970's the Carter administration pushed the Trident program, cruise missiles, the D-5 missile, the Stealth bomber, and the MX missile. The Reagan administration has pressed ahead with each of these programs, as well as the B-1 bombers and the star wars efforts. While arms reductions efforts regrettably have been stalled in the 1980's, new initiatives growing out of the Geneva summit hold the prospect of eventual progress. But the area of defense strategy which has suffered most deeply in recent years has been one of equal importance—that is the area of conventional readiness.

CONVENTIONAL FORCES

Mobile, combat ready conventional forces are essential if we are to keep the nuclear threshold high and reduce the likelihood of a military conflict "going nuclear." Those aspects of our defense expenditures that ensure our conventional readiness—the money that goes toward training purposes and maintaining and operation equipment—have long suffered from neglect.

Furthermore, I am deeply concerned that maintaining conventional readiness is certain to become an even more difficult task when the Gramm-Rudman deficit reduction amendment takes effect. This proposal sets annual deficit targets and ceilings that the President and Congress must meet. If projected deficit levels are exceeded, automatic across-the-board reductions in Federal spending are triggered.

The effects of these procedures on readiness could be devastating, since it is probable that defense spending reductions would fall much more heavily upon basic operation and support programs than upon weapons procurement programs. Some analysts predict that by the end of the decade the uniformed services would have to be cut by a third. Spare parts and personnel training accounts could dry up and we would face a serious readiness crisis.

Historically, when the defense budget must be cut, the ax has fallen upon conventional readiness accounts—not only because such aspects of the defense budget are the least glamorous, but also because current accounting practices make it the easiest place to find the most savings the fastest. The fact is 97 percent of all funds appropriated for military personnel is spent in the year for which it is appropriated. In weapons procurement, however, only an average of 13 percent of annually appropriated funds is spent. Thus, a $103 million cut in budget authority for a personnel program generates $100 million in immediate outlay savings. A budget authority reduction of $770 million of a weapons program, however, would be required to generate a comparable $100 million in immediate savings. The result? Lop-sided savings—short-term budgetary savings at the expense of the Nation's long-term readiness needs.

Conventional readiness is an essential aspect of national security. We cannot afford to neglect it. Yet the military establishment has not adapted to meet this crucial challenge, and has thus increased our reliance upon nuclear weapons.

READINESS AND GOLDPLATING

Overemphasis upon high-tech weaponry also works to the detriment of our conventional fighting capabilities. The Pentagon has put too much stock in constant modernization for modernization's sake and in so doing has greatly neglected the role and value of our conventional forces.

The Pentagon's weapons design philosophy and procurement policies have produced unnecessarily complex and costly weapons that cannot be bought in sufficient numbers or properly maintained. Unrealistic cost planning by Defense Department personnel and force development decisions contribute directly to the escalation of costs which are now beyond the capacity of even generous budgets.

Complexity greatly increases equipment costs while driving down the size of fighting forces. Advocacy of less complex weaponry does not mean reverting to weapons that are technically primitive. It simply means that we shouldn't always go for the latest laboratory invention if we can have greater reliability and greater cost-effectiveness with simpler application of advanced technology. Often, too, using more basic hardware means lower unit costs and larger arms stockpiles.

Highly complex technology is more prone to break down. No amount of technological complexity changes the long-shot character of complex battle tasks. The more complex weapons are not as effective in actual combat as weapons with simpler applications of the same advanced technology. Overemphasis on long-shot technology has diverted attention away from the most vital considerations of all: leadership, tactics, and unit structure and training.

A strong defense requires more than just dollars. Priorities must be established, a strategy defined, and goals related realistically to the day-to-day missions of the military services. We must recognize that we cannot continue to tradeoff conventional readiness for complex weapons systems—we need to place greater emphasis upon procuring weapons that are simpler, more durable, less costly, and more reliable. Maintaining a better balance between conventional and strategic forces is essential if we are to serve the national interest.

Mr. PROXMIRE. Mr. President, I would like to bring to the attention of my colleagues a section in the committee report on the fiscal year 1986 Department of Defense appropriations (Rept. 99-176) that deals with the amount of money the Department of Defense factors into its budget each year to account for inflation.

First, let me give my colleagues a little history on how DOD has budgeted for inflation in the past.

Since the early 1970's, each defense budget has contained a forecast for inflation and Congress has provided what it thought was the appropriate amount for inflation.

But in the 1970's, when we had high inflation, Congress usually underfunded for inflation. Usually, more inflation occurred than we predicted.

When that happened, DOD was always quick to let Congress know how much it had underfunded for inflation and to ask Congress for a supplemental to make up for the loss.

In 1982, however, we reformed the way the Defense Department budgeted for inflation.

To solve the problem of underbudgeting for inflation we, in effect, began to overbudget for inflation.

From 1982 on, we added a surcharge onto whatever the predicted inflation was for a particular weapons system. Instead of funding a weapons system at 100 percent of its predicted inflation, we began funding it at 130 percent of the predicted inflation.

That way, DOD would be covered when inflation turned out to be higher than expected—which had been the case in the 1970's. It would have the cushion with the addition of this 30-percent kicker, which was called the major commodity index.

But what's happened to inflation since 1982? It has gone down.

And what's happened each year with DOD's inflation forecast? Instead of being too optimistic—as it was in the 1970's—it has been too pessimistic since 1982.

The Defense Department has budgeted for more inflation than has actually occurred since 1982. And each year, when we predicted an inflation rate that was too high, we were passing excess appropriations to cover that higher rate.

In other words, a portion of the inflation rate we have been funding each year never actually occurred.

How much inflation has Congress funded in the DOD budget that never actually occurred?

There are a number of estimates. The General Accounting Office, in a report submitted to two of my colleagues on this committee—Senator HATFIELD and Senator D'AMATO—estimated that DOD has budgeted $36.8 billion more for inflation since fiscal year 1982 than was needed to cover inflation.

Secretary Weinberger has stated that the dollar amount for excess inflation during that period was $28.4 billion.

Not only has Congress had a difficult time getting a handle on how much excess inflation has been funded for Defense, it has been next to impossible for Congress to track where all this money has ended up in the DOD budgets.

When we underfunded for inflation, we could always count on DOD to be there Johnny-on-the-spot with detailed information on where we have spent too little.

As we can all imagine, DOD has not been as dilligent in telling us when we have given them too much money for inflation.

For that reason, I asked my good friend from Alaska, the chairman of our Defense Subcommittee, to include language in the committee report to require that DOD identify these excess inflation funds.

And I am pleased that he has agreed to include such language in the committee report. That language requires the Defense Department:

To identify the excess payments that have been made for inflation;

To show what money can or cannot be recouped;

To justify any future inflation indices that may be above the GNP deflator;

And to report on ways we can better estimate inflation for these weapons systems and track excess inflation funds.

Again, I would like to thank Senator STEVENS for including these requirements in the Committee report. I would also like to recognize two other Senators who have taken the lead on bringing this issue to light—my good friend from Arkansas, Senator PRYOR, and my good friend from Missouri, Senator EAGLETON.

I would point out that this report language does not solve the problem of excess inflation funding. We still have a long way to go before we reach any solutions.

But at least this report language begins the process of identifying this excess funding so we can deal with it in future DOD budgets.

Mr. BENTSEN. Mr. President, I wish to endorse a particular amendment the Appropriations Committee has added to the continuing resolution as passed by the House. I had strongly encouraged the Appropriations Committee to include funding for the sewage treatment construction grant program under the Clean Water Act, and I am gratified that they have done so. The appropriation of the full $2.4 billion budgeted for fiscal year 1986, and the immediate momentum in this vital program.

The authorization for the construction grant program expired September 30. Although the Senate passed legislation reauthorizing the Clean Water Act in June, and the House in July, the involvement of the House Public Works Committee in the Superfund reauthorization effort has prevented the conference committee from meeting. While we would have preferred to have an authorization in place before appropriating funds for this program, the need for program continuity forces us to act in this way.

A sizable amount of money was carried over as unobligated funds from fiscal year 1985, and continued to be available. We had hoped this would prove sufficient until the reauthorization bill was enacted. Some States had completely utilized their 1985 funds, however, and others had much of their unobligated funds tied up in contested projects or mandated set asides, leaving little effectively available in 1986. Nearly 30 States are virtually out of funds. My own State of Texas is a good example—on paper there appears to be an unobligated balance of $10 million—compared to an annual program of nearly $100 million, but various commitments and set asides reduce the amount effectively available to less than $1.5 million.

It appears likely that the Clean Water Act conference will not conclude until late February or later. In many States failure to make more money available until that time would mean the loss of the 1986 construction season and could jeopardize attainment of the 1988 deadline for municipal compliance with the secondary treatment standard.

For these reasons the Committee on Environment and Public Works, the authorizing committee, has joined with the Appropriations Committee to provide this limited funding for fiscal year 1986. We believed it is important at this time to appropriate the full $2.4 billion recognized in the budget resolution and contained in the reauthorization bill, so that our commitment to this program will be fully reflected in the budget adjustment process. At the same time, the Clean Water Act reauthorization bill passed by the Senate contains many needed reforms, including a new allocation formula reflecting current needs, and we wished to maintain an incentive to reach final enactment of that bill as early as possible.

Therefore we agreed with the Appropriations Committee on a provision that makes available for immediate obligation only $600 million, or 25 percent of the full $2.4 billion. Since this is a continuing resolution, this money will be alloted on the basis of the formula used to allot fiscal year 1985 funds. When the balance of the $2.4 billion is released, it will be allotted so that the total $2.4 billion is allotted to reflect the new formula for 1986 adopted by the conference committee on the reauthorization bill. The partial release of these funds, using the old formula, in no way prejudices the decision of the conference on the development of a new formula.

I want to thank Senator GARN and Senator LEAHY for their leadership on this question and for their cooperation with Senators CHAFEE, MITCHELL, STAFFORD, and myself, and other members of the Environment and Public Works Committee, in seeing that this funding is included in the continuing resolution. I will continue to work with them to encourage the House to accept this needed provision.

MEDICARE PART A DEDUCTIBLE

Mr. BAUCUS. Mr. President, on October 23, the Senate unanimously agreed to an amendment that I offered to the reconciliation bill that highlighted the problem of the steep increase in the Medicare hospital insurance deductible.

My amendment requires the Secretary of HHS to notify Congress earlier than is now required of any future changes in this direct out-of-pocket cost to the elderly for health care.

Back in October, I promised my colleagues that I would continue to work on this issue by urging the conferees on the budget reconciliation bill to take swift action to lower the unwarranted and unintended increase in costs to beneficiaries for hospitalization.

I continue to believe that this issue must be resolved before the end of the year and that it is entirely appropriate that the conferees on the reconciliation bill should examine the best way to achieve the reduction in the Medicare deductible.

Last Friday, I sent a letter to each of the Senate conferees from the Budget Committee and the Finance Committee expressing my strong belief in the need to take action to resolve this issue in the days ahead.

I ask that the text of my letter be inserted at this point in the RECORD.

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

U.S. SENATE,
Washington, DC, December 6, 1985.

DEAR SENATE CONFEREE: I am writing to urge you to support a fair and reasonable limit on the out-of-pocket health care costs paid by America's senior citizens for hospital care.

On September 30, the Secretary of Health and Human Services had some startling news for Medicare beneficiaries. HHS announced that the Medicare Part A hospital

insurance deductible—the amount that beneficiaries are called on to pay before Medicare begins to cover hospital expenses—will increase by 23 percent starting on January 1, 1986. This amount is much higher than the average increase in the deductible for the past 20 years. It also comes at the same time that Social Security checks will increase by only 3.1 percent.

Each year, HHS calculates the Medicare hospital insurance deductible based on a formula which measures the increase in the cost per day of hospitalization. When Medicare began twenty years ago, beneficiaries paid a $40 deductible. By 1985, it has risen to $400. Now, HHS has announced that beneficiaries will be responsible for the first $492 for hospital care before Medicare coverage begins, a 23 percent increase over last year.

Senior citizens will also pay 23 percent more next year in coinsurance for lengthy stays in hospitals and skilled nursing facilities. These daily coinsurance amounts are paid by the beneficiary for hospital stays beyond 60 days and for stays beyond 20 days in a skilled nursing facility.

The steep increase in the deductible and coinsurance amounts for 1986 is largely due to the recent sharp decline in the amount of time Medicare patients spend in the hospital. Simply put, the decline in the length of stay means that the fixed costs of hospital care are spread out over fewer days, resulting in much higher average daily costs. This decline in the length of stay also means that the deductible is overstated for next year by almost $50.

Health care providers and the federal budget have both benefited from the decline in the amount of time that patients now spend in hospitals. Indeed, these declines are directly attributable to the fundamental reforms we have made in Medicare with the new Prospective Payment System, which rewards hospitals for shorter stays.

It would be grossly unfair if the 1983 prospective payment reforms penalize Medicare beneficiaries with a completely unintended increase in their charges for hospital care.

I urge you, as a conferee on this year's reconciliation bill, to take action to set the Medicare deductible at a fair and reasonable level. Action is needed during the conference to ensure that next year's amount is more consistent with historical change in this out-of-pocket expense. Surely, nobody wants to see senior citizens penalized for declines in hospital stays which have distorted the level of the deductible by almost $50.

On October 23, the Senate approved an amendment that I offered to the budget reconciliation bill which highlighted the problem with the Medicare deductible. My amendment requires the Secretary of HHS to publish a more timely notice in the Federal Register of the annual increase in the Medicare deductible. This amendment simply reduces the chance the Congress will be taken by surprise by sudden changes in the deductible and coinsurance amounts in future years.

However, further action must be taken now if we are to remedy the unwarranted increases in the 1986 deductible and coinsurance amounts.

Several bills have now been introduced in both the House and Senate to address this problem and senior citizens are writing and calling to urge us to lower these charges. I hope you will support America's senior citizens by taking action during the conference to establish a fair limit on out-of-pocket health care expenses for next year.

With best personal regards, I am

Sincerely yours,

MAX BAUCUS

Mr. BAUCUS. Mr. President, I know how important this issue is to the senior citizens of this country, many of whom are struggling now to meet their share of the costs of hospital care. I hope that other Senators will join me in letting members of the conference know that today's procedural votes on this issue should not be interpreted as a sign that we believe that the increase in the hospital insurance deductible should be allowed to take effect on January 1, 1986.

I urge you to support efforts to lower this out-of-pocket health care expense as the Congress continues to consider Medicare legislation in the days remaining in this session.

VITAMIN A AMENDMENT TO HOUSE JOINT RESOLUTION 465

Mr. CHAFEE. Mr. President, I would like to thank Senator KASTEN and the staff of the Appropriations Committee for incorporating my vitamin A legislation into S. 1816, the foreign assistance appropriations bill which has been included in the continuing resolution.

The committee has included language earmarking $8 million in the agriculture, rural development and nutrition account of the Agency for International Development [AID], for the vitamin A deficiency programs.

An estimated 500,000 children go blind in developing countries each year because they do not get enough vitamin A. Approximately 35 million of the world's 42.2 million blind live in developing nations. That number is expected to double by the end of the century. Blindness can easily be prevented but programs for its prevention have lacked support. Before blindness occurs, however, damage to the intestinal tract and respiratory system cause many other illnesses and even death. Ten million children suffer from this nutritional disorder annually. The World Health Organization considers vitamin A deficiency a public health problem in 73 countries and territories.

These funds will be used to set up programs worldwide to distribute megadoses of vitamin A and to teach people how to grow foods rich in vitamin A and to prepare those foods properly to ensure no nutrient loss. These programs will be administered by AID, the World Health Organization and the International Vitamin A Consultative Group—known as IVACG.

The IVACG Secretariat is located at the University of Rhode Island. IVACG was established to maintain flexible participation by policymakers, programmers, and scientists concerned with vitamin A deficiency and representatives from countries where hypovitaminosis was a problem. Thus, IVACG continues to be dedicated to reducing the prevalence of vitamin A deficiency worldwide. It has been located at the University of Rhode Island because the university is—I am proud to say—one of the major centers for education on foods and nutrition specializing in vitamin A and provitamin A research activities.

"IVACG under the supervision of two University of Rhode Island professors, Dr. C.O. Chichester and Dr. Paul Maugle," according to Dr. Edward M. DeMaeyer of the World Health Organization [WHO] in Geneva, "will act as the scientific body advising WHO on research requirements in the 10-year plan to combat vitamin A deficiency."

Mr. President, needless to say the people of Rhode Island continue to be proud of the work done by the IVACG at URI. I would once again like to thank the Senate Appropriations Committee for taking a positive step toward a solution to this dreadful problem and urge the Senate to approve this measure.

Seldom do we have a simple and available opportunity to improve the lives of so many. This legislation will prevent blindness and death in areas of the world where enough hardships already confront mankind.

GROUND PROXIMITY WARNING SYSTEM

Mr. GORTON. Mr. President, Senator EVANS and I would like to direct the Senate's attention to a program that was not considered in the Defense Appropriations markup. The technology for this program is available now and would save lives and taxpayer dollars in the years to come if our armed services would incorporate it into their aircraft. It is called the ground proximity warning system, the same system, I would like to point out, that is required on all commercial passenger aircraft. When an aircraft is outfitted with the GPWS, an aural alarm warns the crew when a dangerous trajectory is maintained. The term of art which describes the kinds of crashes of concern here is "controlled flights into terrain." Prior to the installation of GPWS's in commercial aircraft, 50 percent of all U.S. commercial airline fatalities resulted from this kind of accident. Today, such accidents have become a thing of the past—except in our Armed Forces.

The natural defense application is in transport and other normal performance aircraft, but flight tests suggest that high performance fighter aircraft may also benefit. It is estimated that as many as 211 out of the more than 300 Naval aircraft that were lost between 1970 and 1984 in controlled-flight-into-terrain crashes would not have been lost if they had been equipped with modern GPWS's.

Even without considering the human toll, the GPWS is highly cost

effective. If the GPWS were to save just one $40 to $50 million aircraft (a reasonable cost estimate for transport aircraft outfitted with sophisticated equipment), the savings realized would permit installation of GPWS's in over a thousand aircraft.

The Office of the Secretary of Defense has acknowledged an almost flat aircraft attrition rate and recommended GPWS as a solution. Some military aircraft have been equipped to date, but these constitute only a small percentage of the total that could benefit. The President's budget did not include a request for the system.

In my view, this is unfortunate.

Mr. EVANS. I commend my colleague from the State of Washington for bringing this matter to the attention of the Senate. Mr. President, I am often puzzled by the logic employed by the Department of Defense. We are implored day after day after day to support tremendous expenditure levels to maintain our national security. Yet, when presented with an opportunity to save money, the services tell us that it is a low priority.

Mr. President, the Air Force has admitted, in hearings before the House of Representatives, that the ground proximity warning system is a high priority program for airlift aircraft. Yet, they state that this system is a relatively low priority program for transport aircraft. They say this in spite of the fact that we lose four or five transport aircraft in so-called controlled-flight-into-terrain accidents each year and that at least half of such accidents in the past 5 years would likely have been prevented with a ground proximity warning system.

Mr. President, every time we save an aircraft, we buy an aircraft. These systems, I am told, cost approximately $10,000 per aircraft. I believe we would be getting a pretty good deal if we can purchase, effectively, a $40 million transport aircraft for $10,000.

As my colleague has indicated, this is a cost-effective system and I would urge that the services rethink their priorities and consider very seriously the possibility of installing these systems not only on transport aircraft but on fighter aircraft as well.

Mr. GORTON. We seek an assurance from the distinguished senior Senator from Alaska, who has done as much as anyone in this body to provide our country with the best possible defense at the most reasonable cost, that he will look favorably in conference upon the language in the House appropriations bill that supports the use of modification funds for installation of GPWS equipment. We understand that this language does not require the services to spend any of these funds, so we also request that the chairman of the Defense Appropriations Subcommittee will also look favorably upon the program during the committee's consideration and markup of the fiscal year 1987 Defense Appropriations bill.

Mr. STEVENS. I am familiar with the achievements of the ground proximity warning system in the commercial field, and am also aware of the potential benefits the system could provide our Armed Forces. As you are aware, there are many programs that are worthy of strong consideration, but budgetary limitations require tough decisions to be made. As you point out, however, the case can be made that this program may more than pay for itself by preventing loss of lives and aircraft. Although I cannot guarantee that we will recede to the House position in conference; I can offer assurances that I will look favorably on the proposal from the Senators from Washington and do my best to accommodate them during conference.

In addition, I agree that the GPWS deserves serious consideration next year by the subcommittee. I would hope that the Department of Defense and the services also give the GPWS their full consideration in anticipation of our focus on this issue next year.

5-TON TRUCKS

Mr. QUAYLE. Mr. President, I would like to compliment my friend, the Senator from Alaska, on his subcommittee's work on this appropriations bill, and ask him if he would help clarify a matter for me, my colleagues, and the executive department.

Mr. STEVENS. I would be glad to do so, Mr. President.

Mr. QUAYLE. I rise to seek the assistance of my esteemed colleague from Alaska in eliminating any ambiguities that might be read into the committee's report language with respect to restrictions on the use of authority for an extension of the current production contract for 5-ton trucks.

As the Senator knows, the authorizing committee, on which I serve, provided such authority for an extension for a very good reason. Without it, there is a very good chance that there will be a production gap of, as I understand it, some 9 to 12 months. That is bad for the Army, and it is bad for the taxpayer. For that reason, the Armed Services Committee authorized such an extension, which can be viewed as an insurance policy. It is, if you will, a plan to insure there will be no break in production while we are in the process of conducting the competition and awarding a new multiyear contract.

I seek the committee's assurances that an absolute restriction on the use of that contract extension is not the intent of the committee.

Mr. STEVENS. Mr. President, I appreciate the valid point raised by my friend from Indiana. I welcome the opportunity to clarify the intent of this language in our report. The Senator is absolutely correct in his assumption that it was not the committee's intent to preclude altogether the use of an extension to the current contract for 5-ton trucks. The Senate will note that the language is advisory, and not directive.

I reassure the Senator that the committee merely wished to specify that once truck production can begin under the new, follow-on 5-year contract, then we should move on from the old contract or any extension to it. I hasten to emphasize that it would not be the committee's wish that there be a production gap for this vehicle for which our armed services have an immediate 12,000-truck shortfall.

Mr. QUAYLE. I am encouraged to hear the chairman's assurances. I would note, for the record, that this summary of the report language and committee intent corresponds to the clarification made on the floor of the House of Representatives during that body's consideration of the defense appropriations bill on October 30. While I certainly understand the committee's reservations over such a contract extension, I am pleased that the committee does not have a problem with allowing the use of this mechanism should it become necessary to avoid any production gap.

We cannot allow the production of these badly needed vehicles to falter. Neither can we allow suppliers throughout the country to cease production and then start back up later. This would only increase the costs incurred by the taxpayer for this very necessary conventional program and the spare parts to support it.

I thank my friend from Alaska for his assurances, and I again salute him and the ranking subcommittee minority member, my esteemed colleague from Mississippi, Mr. STENNIS, for their hard work on this legislation.

THE PROFESSIONAL SPORTS COMMUNITY PROTECTION BILL

Mr. HATCH. Mr. President, this week the majority leader reserved time for the consideration of S. 259, the professional sports community protection bill, which Senators DANFORTH, DIXON, SIMON, and EAGLETON introduced in January, and which was subsequently cosponsored by me and five other Senators. This legislation was reported from the Commerce Committee on April 2, and was later referred to the Judiciary Committee for its review. Since July it has been on the calendar awaiting action.

Subsequent negotiations have resolved almost all of the outstanding problems in connection with this bill, and I believe consensus legislation has developed which will promote legal and economic stability in professional sports and enjoys nearly unanimous support in the Senate.

The bill cannot go forward, however, because of a dispute over league expansion. So that the record may be set straight on that issue, I offer the following observation:

Expansion of the National Football League, as well as other sports leagues is a subject near and dear to the hearts of many Senators. I believe we should encourage expansion, and by creating an atmosphere of legal and economic stability in professional athletics, this bill provides incentives to expand and reaches toward that end.

Instead of incentives, we are confronted by a demand that the National Football League expand by a specific number of teams to be added by a certain date.

Mr. President, incentives to expand are one thing, mandates are another. At its heart, expansion is a business judgment. It is for the businessmen, not Congress, to determine how big or small a business may be. How does Congress come to make these kinds of decisions? Have we conducted economic surveys? Can we assert that expansion by any preordained number of teams will be economically viable? Is it our money which is at stake if statutory expansion produces undue economic dilution? I submit, Mr. President, that we are not able to make those judgments about steel, electronic, or automobile industries or any other form of business.

Mandated expansion is a horrible precedent. It is indistinguishable, I might add, from mandated shrinking, although I detect absolutely no sentiment for that.

An amendment which would have required expansion was offered during Commerce Committee consideration of this bill. It was defeated 2 to 14. Now incorporation of that ill-founded amendment is the price demanded for the Senate even having the opportunity to consider the bill at all. In essence, the committee process counts for nothing. The votes of the 14 members of the Commerce Committee who opposed this provision count for nothing.

In sum, Mr. President, I want the record to be clear, the sponsors of this bill and its many supporters are for expansion and we are prepared to go as far as providing incentives to expand, but we will not attempt to extend the long arm of Government into areas where it clearly does not belong. If the Senate is ever given the opportunity to vote on the provisions now being demanded as the price for consideration of this bill, I have no doubt that proposal would meet a resounding defeat.

TRIBUTE TO SNOW COLLEGE IN EPHRAIM, UTAH

Mr. HATCH. Mr. President, it is with much pride today that I rise to pay tribute to the players and coaches of the Badgers football team of Snow College in Ephraim, UT.

Snow College is a relatively small school. It boasts an enrollment of only 1,400. Still, like its larger neighbor up the road, Brigham Young University, it is fast becoming known as a football powerhouse.

The proof:

Saturday, Snow defeated the favored Norsemen from Northeastern Oklahoma A&M in the Mid-American Bowl, held in Tulsa, OK. The score was a convincing 29-14. As a result, the Badgers close out the season with a perfect 11-0 record and will most likely be named national champions when the final vote is taken later this week by the 12 geographical representatives of the National Junior College Athletic Association [NJCAA].

Mr. President, a good portion of the credit should go to freshman quarterback Kevin White, who passed for two touchdowns and ran for another. In the beginning, Northeastern Oklahoma A&M took a 7-0 lead, but the Badgers kept their composure and, from then on, it turned into the "Keven White Show" with, let me hasten to add, support from his offensive line and a pair of spectacular catches for touchdowns by Chris Patane and Mike Borich. White finished the game completing 28 of 45 passes for 361 yards. Needless to say, he was named the game's offensive MVP.

But, Mr. President, although it is the players who went out into the field, took the knocks and carried the ball, the influence and teaching of their head coach, Walt Criner, cannot be underestimated. He is one of the best in the profession. And he is a man of his word. Last winter, surprisingly enough, he made up a plaque for his players that read: "Those who stay will be champions." All but four from last year's 4-6 team stayed.

He has, indeed, lived up to his word.

JUSTICE POTTER STEWART

Mr. METZENBAUM. Mr. President, I join many Americans in mourning the passing of a fellow Ohioan, Justice Potter Stewart. Justice Stewart served this country with distinction and dignity for many years, and he will be missed.

Justice Stewart's entire career was noted by his competence and common sense. He worked as a reporter for the Cincinnati Times-Star, and served the people of Cincinnati as a city councilman and vice mayor.

In 1954, he was named by President Eisenhower to the Sixth Circuit Court of Appeals, with jurisdiction over Ohio and neighboring States. At the time, he was the youngest appellate court judge in the Federal system.

His work so impressed President Eisenhower that, in 1958, he was elevated to the Supreme Court. Justice Stewart took the seat held by another Ohioan, Justice Harold Burton.

On the Court, Justice Stewart's record was one of moderation. He diligently tried to decide cases based on his impartial view of the law and precedents, not ideology. His record reflects a strong commitment to protection of privacy interests contained in the Bill of Rights.

He was the author of a leading decision interpreting the fourth amendment protection against unreasonable searches and seizures. In the Katz case, Justice Stewart held that places beyond one's home in which a citizen has a reasonable expectation of privacy were protected by the Bill of Rights. In that case, a warrantless wiretap placed on a public phone booth was held to be illegal.

Perhaps his work as a reporter gave him a special sympathy with the importance of the first amendment in our democracy. He strongly dissented, for example, to the Government's use of the grand jury to force reporters to reveal confidential sources.

His work was often characterized by his keen abilities with the English language. One of his best phrases was one used in condemning as arbitrary and capricious the 1972 Georgia death penalty statute. "These death sentences are cruel and unusual," Justice Stewart wrote, "in the same way that being struck by lighting is cruel and unusual."

Justice Stewart's disagreement with the majority of the Warren Court is much in vogue these days, he is often cited by those on the ideological right who proclaim their views are historically or constitutionally correct. But it is well worth noting that Justice Stewart concurred with strong Supreme Court majorities in ensuring one-person/one-vote representation in State legislatures; in protecting a woman's right to reproductive choice, and in many Supreme Court orders desegregating our Nation's schools.

In 1981, the Nation was surprised to learn of Justice Stewart's retirement from active service on the Court. He was quoted as saying that he wished to spend more time with his grandchildren.

Mr. President, I can think of no better reason for excusing oneself from the rigors of public service after a long career.

But his public service did not end with his retirement. In a part-time capacity, Justice Stewart sat by special designation on the Sixth Circuit Court of Appeals and other tribunals. He also devoted a great deal of time and energy into hosting a public television series on the Constitution. This outstanding series will remain a strong

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legacy of Justice Stewart's and an excellent teaching device for law students and lay students alike.

Justice Stewart's dedication to public service continued a tradition of service by the Stewart family to the people of Ohio. His father served as mayor and councilman from Cincinnati, and later on the Ohio Supreme Court.

Mr. President, I extend heartfelt condolences to Mary Ann Stewart, their three children and six grandchildren.

LEAVE OF ABSENCE

Mr. MATHIAS. Mr. President, I ask unanimous consent, under provisions of rule VI, to be absent from the Senate next week so that I may discharge the duties of the president of the North Atlantic Assembly.

The PRESIDING OFFICE. Is there objection? Without objection, it is so ordered.

RECOGNITION OF ELVA KROGH

Mr. MATHIAS. Mr. President, Miss Elva Krogh, a former resident of the District of Columbia, now living in Monterey, CA, worked for 30 years in the decimal classification section in the Library of Congress. I believe her innovative contributions to library science over a working lifetime for the Federal Government deserve recognition.

The Dewey decimal classification system is widely regarded as having revolutionized library science. The system, invented by Melvil Dewey, was periodically refined in editions published by the Forest Press. In the process of working with the system and adapting it to the requirements of new subject matter, improvements were made. One of the most important improvements, contributed by Miss Krogh, was an error-proof method of extending the numbers available in each classification category of the system.

This innovation, credited by Melvil Dewey's son, Godfrey, as "the best thing to have happened to the system in a long time," was acknowledged in the 17th edition of the classification system as a "new and striking concept." It is a concept which has been applied to all classification tables published in subsequent years and thus resulted in a lasting contribution to the field of library science. For this, Miss Elva Krogh deserves the recognition and appreciation of her profession and her government.

PROFESSOR MELVILLE B. NIMMER

Mr. MATHIAS. Mr. President, on November 23, the field of copyright law lost its most authoritative scholar and commentator. Prof. Melville B. Nimmer, who died last month in Los Angeles at the age of 62, was the undisputed giant of American copyright law.

Like Prosser, Wigmore, and Williston, Professor Nimmer's name is synonymous with an entire body of law. His four-volume treatise, "Nimmer on Copyright," has been cited countless times by the courts, and is universally regarded as an indispensable reference by virtually every practitioner in this field. Although Professor Nimmer was an acknowledged expert on the first amendment, and on entertainment law matters, it is in copyright above all that his passing leaves a void that can never be entirely filled.

His stature is aptly summarized by the headline that accompanied a profile of Professor Nimmer in the October 10, 1983 edition of the "National Law Journal": "The Man Who Wrote the Book: Melville B. Nimmer is the King of Copyright."

As chairman of the Subcommittee on Patents, Copyrights and Trademarks of the Committee on the Judiciary, I know that Mel Nimmer will be missed. I speak for all Senators in extending my condolences to Mrs. Nimmer and to the rest of his family.

Mr. President, I ask unanimous consent that Professor Nimmer's obituary from the November 27 edition of the New York Times be printed in the record at this point, along with the 1983 article from the National Law Journal.

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

[From The New York Times, Nov. 27, 1985]

MELVILLE B. NIMMER, 62 DIES; EXPERT ON LAW OF COPYRIGHT

(By Wolfgang Saxon)

Prof. Melville Nimmer an expert on copyright laws and an advocate of free speech, died of cancer Saturday at Cedar-Sinai Medical Center in Los Angeles. He was 62 years old and a resident of Los Angeles.

Professor Nimmer joined the facility of the University of California at Los Angeles School of Law in 1962. He continued as a practicing lawyer, winning noted cases before the United States Supreme Court and California's high court.

In 1971 he won a benchmark case in the United States Supreme Court that is now included in many textbooks on Constitutional law.

The case, Cohen v. California, involved, a young man who was arrested on Federal property for wearing a jacket bearing a slogan that used an obscenity in protest of the draft. The case established that the defendant had made a protected political statement.

Professor Nimmer contended that "symbolic" speech deserved "full and equal protection" under the First Amendment.

BOOK PUBLISHED IN 1963

Mr. Nimmer's four-volume treatise, "Nimmer on Copyright," first published in 1963, has been quoted in countless legal briefs and judicial opinions on the subject. A companion work, "Nimmer on Freedom of Speech," appeared last year.

Congress passed a new copyright statute in 1976, but computer software, home video tapes and other new technology led to a flood of litigation in which Professor Nimmer's writings again were usually cited.

In addition, his advice was sought on such subjects as plagiarism and censorship as they relate to writers and the entertainment field. He lectured extensively here and abroad, including in Israel and Australia, where he taught last summer. He was also a fellow at the Max Planck Institute in West Germany

NATIVE OF LOS ANGELES

Melville Bernard Nimmer, a native of Los Angeles, graduated from the University of California at Berkeley in 1947 and from Harvard Law School three years later. Since no course on the subject was then available, he got his grounding in the copyright laws by reading cases.

After working for a time in the legal department of Paramount Pictures, he became a partner in 1957 in the firm of Nimmer & Selvin as well as general counsel to the Writers Guild of America, which represents Hollywood film and television writers.

Professor Nimmer is survived by his wife, Gloria; a duaghter, Rebeca Marcus of Tucson, Ariz.; two sons, Laurence Nimmer, of Van Nuys, Calif., and David Nimmer, of Los Angeles, and five grandchildren.

A memorial service was to be announced.

[From the National Law Journal, Oct. 10, 1983]

MELVILLE B. NIMMER IS KING OF COPYRIGHT

(By Mary Ann Galante)

LOS ANGELES.—Melville B. Nimmer may not know everything there is to know about copyright law, but if he doesn't, who does?

In the two decades since Mr. Nimmer's four-volume treatise on copyright law was published, the 60-year-old University of California at Los Angeles law professor has become the acknowledged dean of his subject. And "Nimmer on Copyright," like "Prosser on Torts" or "Wigmore on Evidence," has become the Bible in its field.

With the explosion in copyright litigation in recent years, Mr. Nimmer's work has become a well-thumbed Bible at that. Even though a new copyright statute was enacted in 1976—the first since 1909—the rapid development of such new technology as computer software and home videotapes has raised a host of troublesome legal issues that Congress could not anticipate eight years ago.

And as lawsuits testing the new law and the new technology wend their way through the courts, the authority most likely to surface is Mr. Nimmer and his treatise.

"There's no question the treatise stands alone as the most comprehensive in the field," said Alan Latman, of New York's Cowan, Liebowitz & Latman, P.C., a professor at New York University School of Law who is working on a world copyright law treatise with Mr. Nimmer.

One result of Mr. Nimmer's having cornered the copyright market is that the views he advocates in his treatise are often quoted in cases, and in time, have become accepted as the law.

Another by-product is that Mr. Nimmer, who is of counsel in Los Angeles to Chicago's Sidley & Austin, invariably will be approached by one side or the other in almost

any major copyright case to serve as a witness or co-counsel on a brief.

Mr. Nimmer is able to charge $350 per hour for his expertise, a figure he admits is not exactly a fire-sale rate. He also can be choosy about what he works on, usually limiting his association to those cases he finds interesting or in which he will be able to carve out new law.

BLUE-CHIP CLIENTS

The combination has resulted in a largely blue-chip roster of clients, with Mr. Nimmer serving as counsel to such sizable clients as 20th Century-Fox in a battle over alleged infringement of "Star Wars" and the estate of Margaret Mitchell in a pending dispute over sequel rights to "Gone With the Wind."

That's not to say, however, that being generally regarded as the nation's formost authority doesn't have its risks. While Mr. Nimmer can—and sometimes does—cite himself in briefs, opposing lawyers can quote his position with equal ease.

"He does trip on the treatise occasionally," said David A. Gerber, a copyright lawyer with Loeb and Loeb in Los Angeles and a former student of Mr. Nimmer who has worked on several appeals with him. "Then someone will ask on oratorical fury, 'Your honor, whom are we to believe? Nimmer the advocate? Or Nimmer the scholar?' "

Mr. Nimmer usually answers such verbal attacks by telling opponents they do not understand his treatise, then referring them to sections in his work.

"Or else think of what Wilt Williston is quoted as saying when the court called his attention to something in his contract treatise," said Mr. Nimmer, "He answered, 'Your honor, since I wrote that, I've learned a great deal.' "

Nonetheless, Mr. Nimmer bristles at the idea that he would cite his treatise to support a point of law. He quickly points out that he only refers to the work as a shorthand abbreviation for a long string of cases or a complex argument. "I hope I never say that something should be the law because I say so," he added.

In one case decided six years ago by the 9th U.S. Circuit Court of Appeals, however, lawyers on both sides—including Mr. Nimmer—cited his treatise for authority. The copyright infringement suit by television producers Sid and Marty Krofft against McDonald's Corp., and its advertising agency eventually resulted in a damage award of $1.04 million for the couple, who were represented by Mr. Nimmer in the appeal. The court's 15-page opinion quoted and cited Mr. Nimmer's treatise 11 times. *Sid & Marty Krofft Television v. McDonald's Crop.*, 562 F.2d 1157.

THE BETAMAX CASE

Four years later, 9th Circuit Judge John F. Kilkenny of Portland, Ore., was also influenced by the treatise when he referred to the work seven times in the controversial "Betamax" case. *Universal City Studios v. Sony Corp. of America*, 659 F.2d 963 (1981).

The suit was brought by two movie studies against Sony Corp., Manufacturer of the Betamax video recorder. The 9th Circuit opinion, scheduled for U.S. Supreme Court review last term and held over to this term, found that home video taping, even for private use, violates U.S. copyright laws. The appellate court suggested such remedies as banning further home taping—dismissed by Mr. Nimmer as "unthinkable"—or payment of damages for copyright infringement. Borrowing from Mr. Nimmer's treaties, the circuit panel also suggested a royalty payment on future sales of machines or tapes.

Mr. Nimmer, who is not directly involved in the case, will not predict the outcome, instead terming the case "almost a 50-50."

Hearing him discuss the issues, however, it becomes clear that Mr. Nimmer believes such video taping is a copyright infringement. "The fact that it's done in the home really doesn't change [the fact that] there clearly is a use of copyrighted works that is not compensated."

The solution is a form of compulsory licensing, requiring the seller of machines, or tapes, or both, to pay a royality fee based upon sales volume, or perhaps a percentage of the sales price, Mr. Nimmer said in a recent interview.

A royality payment for Betamax use could be established by court decree or created by a congressional statute, with funds then being paid to copyright claimants, similar to the approach now used to make payments to the american Society of Composers, Authors and Publishers and similar organizations, Mr. Nimmer said.

A bill to adopt such compulsory licensing of home video taping is not in Congress, Mr. Nimmer noted. "And I think the handwriting is on the wall. There probably is going to be some kind of statutory license."

When it comes to home taping of phonograph records, the case is even stronger for finding an infringement of copyright, Mr. Nimmer said. "It's at least as open a question as the television home taping," he noted, "I don't think it's at all clear that [audio taping] is fair use" and therefore outside the copyright owner's control.

There, too, Mr. Nimmer suggested a percentage formula might be used to provide for royalty payments based on the sale of tapes.

'A PRIVATE MAN'

In his third-floor office on the UCLA campus, Mr. Nimmer, a private, subdued man, leans back in his chair, tapping a pipe as he talks. Short, with a creased, tanned face and thinning grey hair, Mr. Nimmer has the tweedy, conservative, almost stuffy look of an academician.

Tempermentally, Mr. Nimmer is unflappable and reserve. Longtime friends swear they have rarely seen him angry or upset and use words like "mellow" to describe him.

He speaks slowly and in a low tone, surrounded by three walls of books, including his casebook and multivolume treatise, along with countless rows of outdated law reviews. Shopping bags and boxes of books clutter the floor, piled on top of more boxes of books.

Mr. Nimmer is proud of his ability to juggle teaching, entertainment and constitutional law with his consulting work, writing and research. A disciple of the Socratic method—that plodding process of teaching through questioning—his classroom style parallels Professor Kingsfield, the stern instructor in the "Paper Chase," according to former students.

A native Californian, Mr. Nimmer recalled he "always wanted to be a lawyer—even before I knew what they did." The son of a schoolteacher and a wholesale manufacturer, he attended UCLA for two years before joining the Navy. He was graduated from the University of California at Berkeley in 1947.

At Harvard Law School, Mr. Nimmer learned copyright law by reading cases because no formal course was offered. It paid off when he won first prize in an annual copyright essay contest sponsored by ASCAP, "The national award really got me interested."

Out of school, his first permanent job was with the legal department of Paramount Pictures, starting in 1951. Six years later, he opened an office, Nimmer and Selvin, with Paul Selvin, an entertainment lawyer. "I guess I can't deny that representing copyright owners as a young lawyer has influenced the sharing of my philosophy to some extent," he said.

By 1960, Mr. Nimmer had become chief counsel for the Writers Guild of America. He worked on his treatise during a six-month strike that year when "I'd wake up early. . . . It was my one touch with sanity. Ultimately, it became clear that I needed more time."

Within a year, he had decided to teach law instead of practicing it. He continued work on the treatise, at first tape recording everything that came to mind. Next, he said, he "read every copyright case from 1909 on—it took years. At the end, I had a first draft. Then I had to do a second draft."

The treatise was finished in 1963, after five years of work. Mr. Nimmer now spends about three months a year reading cases and updating the work, using two typewriters—one for the text, the other for footnotes. "Nimmer on Copyright" is entirely his own work—he doesn't depend on students for research.

'WEARING TWO HATS'

Mr. Nimmer acknowledged in a quiet moment that an awkwardness exists in maintaining academic independence while practicing as an adversary. "There is some tension, but the roles are consistent. I think, as long as I recognize I'm wearing two hats."

When he is wearing his advocate's hat. Mr. Nimmer is not at all bashful about expressing his views on what direction the law should take. His views on how the law might keep pace with technology, for instance, suggest he would like to extend copyright protection as far as possible under current statutes.

He maintained, for instance, that public commercial renting of video and audio cassettes is really no different than selling copyright-infringing books in bookstores. And so, such commerical renting "should simply be recognized as a copyright owner's right to control and be a matter of licensing" between the owner and those renting out cassettes.

COMPULSORY LICENSE

Satellite dishes used by homeowners to pick up broadcast signals are another matter. There, Mr. Nimmer said, new laws might again be needed to modify what is an "infringing performance."

The remedy "would have to be some sort of compulsory blanket license." he said. "It may be that by legislation, someone who picks up a signal off the air should be regarded as infringing copyright."

Such payment-oriented schemes have led some observers to characterize Mr. Nimmer's treatise, which is published by Mathew Bender, as favoring copyright owners. "He's more protectionist than not. He tends to favor the interests of the copyright proprietor," said Stephen R. Barnett, a copyright law professor at Berkeley, echoing others.

Mr. Nimmer disagrees: "I happen to think I have a balanced view," he said, somewhat defensively, "I'm not a firebrand fanatic

who wants to make copyright control the world."

Instead, Mr. Nimmer said, he relates copyright protection to the law's underlying purpose of encouraging creativity. "There is a balance—an important balance. And I never forget the ultimate source of copyright is the author," he said.

His belief in a balance becomes more evident when Mr. Nimmer talks about how to protect computer programs. He has taken a wait-and-see attitude, saying all that is clear right now is that programs are protectable.

"It is pretty clear you can't blatantly copy somebody's computer program and put it on the market," he observed. "But I want to at least reserve the thought that maybe at some point, if that appears to be too strong a monopoly, we might modify computer program protection to only protect those programs that would result in what would be regarded as copyrightable works," he said. That approach could mean excluding, for example, programs that determine building traffic flow or building heat.

At the lest, Mr. Nimmer predicts, computer protection issues will generate more litigation and more laws. "The fundamental problem in copyright these days is how do we harness copyright to technology. It's one thing to say we need more protection," he noted. "The challenge is how."

FIRST AMENDMENT TREATISE

A self-described civil libertarian with a mind as well as a heart," Mr. Nimmer these days is focusing his energy on finishing yet another treatise—this one on the First Amendment, which he hopes will be published next year.

He likes to compare and contrast the rights of free speech and copyright, holding them up to the light, dissecting them, finding them endlessly fascinating. The First Amendment "is the other side of the coin in copyright, as I see it. Copyright is a limitation on speech and a proper one—as long as it's within proper bounds. And the other side is that there exists a right to speak out."

On a wall in his office hangs a black and white photo of a long-haired young man, superimposed over a framed copy of the opening pages, of Mr. Nimmer's brief to the U.S. Supreme Court in *Cohen v. California*, 403 U.S. 15 (1971). The case, which he handled without pay for the ACLU from the municipal court level through appeal, is better known as the "—— the draft" free speech case, now in most constitutional law casebooks.

Today, Mr. Nimmer recalls the case with pride, and points to it as the most satisfying in his career. His interest in free speech has always been present, he said. "But in my earlier years, I was more uncritically on the copyright owner's side. Through thinking about the First Amendment, reading cases, I have a more balanced view now."

Asked how his beliefs have changed, Mr. Nimmer scratches his chin and is momentarily silent. "I used to take the view that copyright should not be treated differently than other forms of property, when you go from generation to generation in perpetuity. If I could own Blackacre forever, why not 'Black Beauty?' Or Blackstone?"

"But I've finally concluded there is an answer," he said, pausing. "And that difference is the First Amendment."

THE SITUATION AT ELECTRIC BOAT

Mr. CHAFEE. Over the past few days, I have heard and read many divergent suggestions as to what should be done about the alleged wrongdoing by four corporate executives of the Pomona Aerospace Division of General Dynamics 8 years. The entire company was suspended last week from further bidding on military contracts.

First, I would like to clearly state that I do not condone wrong-doing on the part of any company or individual dealing with the Federal Government. I applaud the move in the Department of Defense to crack down on misappropriations and mismanagement of funds. As a taxpayer, I resent the waste that occurs in many areas of our Government. If these charges are proven correct in a court of law, those individuals who are guilty should be punished.

I completely fail to understand, however, why, when four executives of the General Dynamics Pomona Aerospace Division were indicted last week, all the divisions of General Dynamics were suspended. I see no merit in the idea that the employees of the other General Dynamics divisions should be punished for the alleged 5- to 8-year-old transgressions of corporate executives 3,000 miles away in a totaly unrelated division.

In particular, I am concerned about the Electric Boat Division that employs over 9,000 Rhode Islanders at Quonset, RI, and Groton, CT. This summer Electric Boat worked very closely with the Secretary of the Navy to set up procedures that would, among other things, ensure that the problem that is alleged at Pomona would not happen at Electric Boat. In a meeting with Secretary Lehman last week, he indicated he intends to ascertain whether those procedures are working as intended, and will move to reinstate Electric Boat as soon as possible if his investigation shows no problems. Secretary Lehman further stated that he is impressed with the solid professionalism displayed by Fritz Tovar, vice president and general manager of Electric Boat, as well as the workers at Electric Boat.

There have been many charges that Secretary Lehman is being soft on General Dynamics because he announced that he would delay an upcoming bid for four Los Angeles class attack submarines until the suspension of Electric Boat is lifted.

Mary McGrory, in a Sunday Washington Post column, charged the suspension of General Dynamics is only a slap on the wrist and that the delay of the submarine bidding shows that Secretary Lehman's war on fraud is not truly being fought. Hobart Rowen stated on another page of Sunday's Washington Post that, because the submarine bidding was delayed, it "lends credibility to the charges that the military establishment only want to calm down congressional and press critics of its contracting practices, but intends to do little about curing waste and tackling fraud."

I find it unbelievable that critics of Pentagon spending are not applauding the Secretary's action. Without bids by Electric Boat, the submarine contract for *Los Angeles* class boats would go by default, as a sole source contract, to the Newport News shipyard in Virginia. The bidding competition is believed to reduce the cost of each submarine by about $50 million, or a saving of about 10 percent each. Without this competitive bidding the taxpayer would once again be the loser.

It is incomprehensible to me that these normally thoughtful writers, among others, urge no delay in these bids. Without the delay, The submarines would be built at a far greater cost to the taxpayers. As in the recent case of General Electric, I urge the Defense Department to narrow the suspension to the division involved in the indictment and not hold hostage those innocent workers in other divisions of General Dynamics, as well as the taxpayers of this country.

AFFIRMATIVE ACTION IN JEOPARDY

Mr. CRANSTON. Mr. President, for almost 5 months now, a struggle has been raging within the Reagan administration over the future of Executive Order 11246, the 20-year old Presidential directive mandating equal employment efforts on the part of Federal contractors. Executive Order 11246 reflects the Federal Government's commitment to ensuring that Federal funds are not used to support the continuation of discrimination in this country. I and many others in both parties, in the private sector, and in various Federal agencies, firmly believe that we must not abandon that commitment and have been gravely concerned by the attempts to alter this Executive order.

Executive Order 11246, was issued in 1965 by President Lyndon Johnson. It was enforced by the administrations of Presidents Nixon, Ford, and Carter, and is the most recent in a series of Presidentially mandated prohibitions against employment discrimination by Federal contractors dating back without interruption to the Presidency of Franklin Roosevelt, who in 1941, issued the first Executive order outlawing employment discrimination in Federal contractor workplaces. The efforts to rescind the current Executive order threaten to reverse a bipartisan policy that has been supported and developed by this country's executive branch for more than 40 years.

Under Executive Order 11246, Federal contractors are required to take affirmative action to ensure that job applicants and employees are treated without regard to race, color, religion, sex, or national origin. In practice, this broad mandate obligates Federal contractors and their subcontractors to setting, and making good faith efforts to reach, goals and timetables to correct underrepresentation of qualified minorities and women in their workforces. The regulations implementing the Executive order expressly prohibit the use of rigid and inflexible quotas in achieving these self-imposed targets.

Over the last two decades, the affirmative action programs carried out under Executive Order 11246 have been a major tool in bringing down employment barriers that have long kept qualified minorities and women out of Federal contractor workplaces. A comprehensive study commissioned by the Department of Labor during the first term of the Reagan administration demonstrates that affirmative action programs of firms with Federal contracts have resulted in significantly greater increases in the numbers of minorities and women workers than has occurred in firms not covered by the Executive order, and, to a greater extent, has shifted the employment status of those workers away from low-skilled jobs toward higher-skilled jobs.

In the State of California alone, there are over 8,200 offices or plants, employing approximately 2 million workers, which are subject to the requirements of the Executive order. Nationally, conservative estimates indicate that at least 23 million workers are employed by Federal contractors. Approximately $170 billion in Federal funds are currently contracted out nationwide to these businesses, and by next year that figure is expected to rise to approximately $200 billion. From the magnitude of these numbers, it is clear that the efforts to dismantle this affirmative action program carry with them the potential of reaching deep into the economy and disrupting the social fabric of the country.

Over the last 20 years, the progress made in eliminating discrimination against minority and female workers has been steadily advancing, but, like all socioeconomic progress, it can be reversed if the tools needed to secure and build upon those advances are destroyed. This is precisely the threat posed by the changes to Executive Order 11246 now being proposed by the Attorney General of the United States, Edwin Meese III, and the Assistant Attorney General for Civil Rights, William Bradford Reynolds.

Although a number of proposed revisions to the Executive order have been advanced by Department of Justice officials over the last 5 months, all of them have been and continue to be aimed at stripping from the Executive order the requirement that Federal contractors take positive and measurable steps, involving goals and timetables, to include qualified minorities and women in their work forces. Furthermore, those proposals would remove from the Executive order the legal basis for current affirmative action programs, raising the specter of protracted and costly litigation for every Federal contractor who chooses to continue operating such a program.

Earlier this year, when the antiaffirmative action campaign of Mr. Meese was first revealed, I coauthored a letter to President Reagan with my good friend and colleague from California, Representative GUS HAWKINS, along with Representative JIM JEFFORDS, the chairman and the ranking minority member, respectively, of the House Committee on Education and Labor, expressing our deep concerns over the proposed amendments to the Executive order. Our letter, dated September 17, 1985, strongly urged that Mr. Reagan take no action regarding the Executive order until there has been a full public review of any proposed changes and an opportunity to assess their potential impact upon those who look to the Federal Government to preserve their equal employment opportunity rights. To date, 180 Members of the House of Representatives and 44 Members of the United States Senate have endorsed that view. In addition, a similar letter to President Reagan, authored by Senator DURENBERGER, has been signed by 17 of our Republican Senate colleagues.

During this same period, the AFL-CIO, the United States Conference of Mayors, the Leadership Conference on Civil Rights, the New York Chamber of Commerce and Industry, and the National Association of Manufacturers, have been among the many organizations which have made clear their firm opposition to Mr. Meese's efforts to undermine affirmative action efforts.

The mainstream of the business community is clearly alarmed by the revisions to the Executive order that the Attorney General is seeking to have the President accept. Over the last two decades, Federal contractors have put into place affirmative action programs that have broadened the diversity and talents of their work forces and provided management with a tool for charting progress in bringing into their companies minorities and women, who make up an increasing percentage of working Americans. Moreover, they recognize that their affirmative action efforts raise the morale of minority and woman workers, enhancing the human factor in productivity that no business can afford to ignore.

These businesses have defended the Executive order on other grounds as well. One of their reasons stems from the fact that the affirmative action program lessens the potential for successful discrimination suits against them, provided employers can show they are implementing their programs. Yet another factor relates to the business community's vast preference for a single Federal policy as compared to the myriad State and local equal employment opportunity requirements to which they would be subjected if the requirements mandated under the Executive order were eliminated.

Peter Robertson, Senior Consultant of the Organization of Resources Counselors, Inc., which includes most of the Fortune 250 companies among its clients, in an article that appeared in the Washington Post on November 10, 1985, more fully outlines the reasons why most businesses are opposed to the proposed changes to Executive Order 11246. In addition, Ralph P. Davidson, chairman of the board of Time, Inc., in an article published in the New York Times of November 25, 1985, eloquently defends affirmative action against the unfounded claims which have been raised in an attempt to discredit the concept. More recently still, on November 27, 1985, Mr. Alexander B. Trowbridge, president of the National Association of Manufacturers, wrote President Reagan, expressing support for the goals and timetables required under the Executive order and opposition to the efforts to revoke those crucial features of this affirmative action program.

Affirmative action has made equality of employment opportunity a reality for countless numbers of American men and women. The power to halt and even reverse the gains made in this area is, at this very moment, in the hands of President Reagan. I hope that he will reaffirm the Federal Government's commitment to eliminate employment discrimination through affirmative action by rejecting any proposed revisions to Executive Order 11246.

Mr. President, I ask unanimous consent that the text of our letter of September 17, 1985, to President Reagan, along with two subsequent letters endorsing the statements and recommendations in that letter, and the text of Senator DURENBERGER's letter to the President be printed in the RECORD, followed by the Robertson and Davidson articles and the text of the Trowbridge letter.

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

CONGRESS OF THE UNITED STATES,
Washington, DC, September 17, 1985.

Hon. RONALD W. REAGAN,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We understand that White House staff has drafted an executive order repealing requirements that federal contractors set numerical goals to remedy discrimination in the workplace. The proposed amendment to Executive Order 11246 would effectively undercut a major tool against employment discrimination which has been in effect and indeed has been strengthened by Republican and Democratic Administrations since 1961.

As you know, Mr. President, civil rights victories have been won in our nation only because of bipartisan cooperation. We have fought against discrimination in education, voting, public accommodations and employment. Today minorities and women have finally began to be included in the American mainstream.

Executive Order 11246 has now been in place for twenty years, during three Republican and two Democratic Administrations. It has been a mainstay of federal efforts to combat discrimination in the workplace. Complaints about the enforcement of the regulations issued pursuant to the Executive Order, where valid should be addressed. However, we do not believe that we can successfully maintain our efforts against discrimination without the use of numbers.

We understand that there have been objections to numerical goals and timetables on the ground that such goals and timetables are tantamount to quotas, giving rise to complaints of reverse discrimination. However, the regulations implementing the Executive order state that, "goals may not be rigid and inflexible quote which must be met, but must be targets reasonably attainable by means of applying every good faith efforts to make all aspects of the entire affirmative action program work" (41 C.F.R. sec. 60-2.12 (1984)). Thus, the regulations draw a distinction between the two terms. In the same way, the use of statistical comparisons in proving discrimination in employment, which has been sanctioned by the Supreme Court, creates a presumption, not a conclusive determination, that discrimination is the basis for any statistical disparity found.

The use of goals and timetables as well as statistics remains an essential tool in combatting discrimination. Indeed, the Supreme Court has sanctioned the use of statistics in proving discrimination in employment. Moreover, Congress and the Executive Branch often set numerical goals to measure the effectiveness of programs. We think much of the success of the Job Training Partnership Act, for example, can be laid to the fact that the law stipulates performance standards to provide a numerical measure of our training programs' success. Likewise, we think we must continue to use numbers to measure our affirmative action programs' success.

Business "goes by the numbers" in production, sales and finance. It is commonplace to do so in hiring and promotion as well. Indeed, some members of the business community have urged the continued use of numerical goals and timetables in the belief that setting numerical goals is a useful business practice, entirely apart from the affirmative action responsibilities incumbent upon a federal contractor.

Congress itself in the 1972 amendments to title VII of the Civil Rights Act of 1964 (section 717) not only required that federal departments, agencies, and instrumentalities be made free from any discrimination in employment based on race, color, religion, sex, or national origin, but also specifically required each to develop and maintain an affirmative program of equal employment opportunity and submit periodic progress reports on the operation of its equal employment opportunity plan. Similarly, Congress imposed affirmative action plan requirements for federal departments, agencies, and instrumentalities in connection with the employment of handicapped individuals (section 501(b) of the Rehabilitation Act of 1973) and the employment of service-connected disabled veterans (section 2014(c) of title 38, United States Code). In the case of handicapped individuals, service-connected disabled veterans, and Vietnam-era veterans, Congress also expressly imposed affirmative action plan requirements on federal contractors and subcontractors (section 503 of the Rehabilitation Act of 1973 and section 2012 of title 38, United States Code).

In enacting these laws, Congress was cognizant and supportive of the Executive Branch policy of implementing affirmative action requirements through goals and timetables and statistical evaluations.

We believe that continuation of affirmative action, including the use of numerical goals and timetables, is a necessary and proper response to the tragic legacy of historical discrimination which continues to plague our country today. It is a tribute to the success of efforts against discrimination that we are seldom today faced with the types of overt discrimination we faced twenty years ago. The discrimination which remains today is more subtle and more difficult to eradicate. Without the use of numbers as an indicator, our job of eliminating discrimination in the workplace will be vastly more difficult, if not impossible.

We also believe that the use of recruitment and training as the only affirmative action measures mandated by the government would be an insufficient response to the problems of discrimination. Nondiscrimination laws involving only voluntary efforts did not work. It was only after the use of goals and timetables were established that discrimination began to fall.

The fundamental principle underlying Executive Order 11246 is that federal monies must not be used to subsidize discrimination and that the privilege of doing business with the Federal Government entails certain special responsibilities. Indeed, many employers understand this imperative and have, by now, incorporated affirmative action principles throughout their personnel procedures. By eliminating the use of goals, timetables and statistics to remedy the effects of discrimination, the Federal Government will be dramatically retreating from this principle.

We strongly urge, Mr. President, that no action be taken on Executive Order 11246 until there has been a full public review of the proposal, and an opportunity to assess its potential impact upon those who look to the Federal Government to preserve their equal employment opportunity rights.

Sincerely,

AUGUSTUS F. HAWKINS,
Chairman,
Committee on Education and Labor.
JAMES M. JEFFORDS,
Ranking Republican Member,
Committee on Education and Labor.

Members of the United States House of Representatives:

Peter W. Rodino, Jr., Don Edwards, Dennis E. Eckart, Pat Schroeder, Matthew G. Martinez, Charles A. Hayes, Walter E. Fauntroy, Lee H. Hamilton, Jim Moody, Bob Edgar, Cardiss Collins, Harold Ford, Chet G. Atkins, Jim Wright, Claude Pepper, W. L. Clay, John Conyers, Geo. W. Crockett, Jr., Ronald V. Dellums, Julian C. Dixon, Mervyn M. Dymally, William H. Gray, III, Mickey Leland, Parren J. Mitchell, Major R. Owens, Louis Stokes, Alan Wheat, Austin J. Murphy, Pat Williams, Sam Gejdenson, Gus Savage, Mel Levine, E. Towns, Charles B. Rangel, Ted Weiss, Edward R. Roybal, Barney Frank, Mike Lowry, Norman Mineta, Thomas S. Foley, Pete Stark, Bill Richardson, Henry Gonzalez, Robert Garcia, Stephen Neal, Mo Udall, Lane Evans, James J. Howard, Les Aucoin, William D. Ford, Edward J. Markey, Carl C. Perkins, Thomas J. Downey, Tom Lantos, William Lehman, Bernard J. Dwyer, Jaime B. Fuster, Sala Burton, Bob Kastenmeier, Jim Weaver, Dante Fascell, Gerry Sikorski, Claudine Schneider, Albert G. Bustamante, Glenn M. Anderson, James Traficant, Olympia Snowe, Barbara Boxer, Howard Wolpe, Dale E. Kildee, George E. Brown, Jr., Howard L. Berman, Hamilton Fish, Jr., Barbara B. Kennelly, Jack Brooks, Bruce A. Morrison, Steny H. Hoyer, Dave McCurdy, Frederick C. Boucher, Bill Hughes, Barbara A. Mikulski, Al Swift, Esteban E. Torres, Ronald D. Coleman, Thomas M. Foglietta, Mary Rose Oakar, Bruce Vento, Terry L. Bruce, John Bryant, John Seiberling, Robert T. Matsui, Norm Dicks, Frank J. Guarini, Les Aspin, Silvio O. Conte, Tony Beilenson, Dick Durbin, Ben Gilman, Solomon P. Ortiz, Sander Levin, Vic Fazio, Henry A. Waxman, Robert G. Torricelli, Lindy Boggs, Stewart B. McKinney.

Members of the United States Senate:

Alan Cranston, Donald Riegle, John F. Kerry, Paul Simon, Spark Matsunaga, Howard Metzenbaum, Daniel K. Inouye, Paul S. Sarbanes, Charles McC. Mathias, Jr., John H. Glenn, Jr., Gary Hart, Ted Kennedy, Lowell Weicker, Christopher J. Dodd, Bill Proxmire, Claiborne Pell, Robert T. Stafford, Tom Harkin, Thomas F. Eagleton, Carl Levin, David Durenberger, Daniel P. Moynihan.

U.S. SENATE,
Washington, DC, October 22, 1985.

Hon. RONALD W. REAGAN,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: We join in support of the statements and recommendations expressed by the 126 members of the House of Representatives and United States Senate in their letter of September 17, 1985, which strongly urges "that no action be taken on Executive Order 11246 until there has been a full public review of the proposal, and an opportunity to assess its potential impact upon those who look to the Federal Government to preserve their equal employment opportunity rights."

Sincerely,

Ernest F. Hollings, John Melcher, David L. Boren, Quentin N. Burdick, Dennis DeConcini, Frank R. Lautenberg, Bill Bradley, Joseph R. Biden, Jr., Wendell H. Ford, Lloyd Bentsen, John D. Rockefeller IV.

U.S. SENATE,
Washington, DC, November 25, 1985.

Hon. RONALD W. REAGAN,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: We wish to add our support for the statements and recommendations in the letter of September 17, 1985, endorsed by 188 members of the House of Representatives and the United States Senate, strongly urging "that no action be taken on Executive Order 11246 until there has been a full public review of the proposal, and an opportunity to assess its potential impact upon those who look to the Federal Government to preserve their equal employment opportunity rights."

Sincerely,

Alan J. Dixon, Patrick J. Leahy, J. James Exon, Max Baucus, Sam Nunn, James R. Sasser, Jeff Bingaman, Albert Gore, Jr., J. Bennett Johnston.

U.S. SENATE,
Washington, DC, November 25, 1985.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We understand that you are considering amendments to Executive Order 11246, which would weaken the equal employment opportunity obligations of federal contractors. The Order currently prohibits federal contractors from employment discrimination on the basis of race, color, religion, sex, or national origin. It also requires contractors to take affirmative steps to ensure that such discrimination does not take place.

Executive Order 11246 currently enjoys broad-based support including a majority of the business community. If the Order is amended, it will open the floodgates to a proliferation of litigation and legislation. Such a result will engender instability in the business community and a serious disruption of the legislative process.

Over the years we have made great strides toward eliminating discrimination of any kind. However, regrettably, there is a public misperception that the Republican party has become lax in its commitment to equality of opportunity.

We hope that you will carefully consider the potentially damaging impact of any amendments to Executive Order 11246 and that you will not take any action which jeopardizes the progress that we have made.

Sincerely,

Senators: Robert Stafford, Dave Durenberger, Slade Gorton, William Cohen, Daniel Evans, Lowell Weicker, John H. Chafee, Bob Packwood, Arlen Specter, Nancy Kassebaum, Rudy Boschwitz, John Heinz, Mark Andrews, Charles McC. Mathias Jr., Mark O. Hatfield, Dan Quayle, Thad Cochran.

[From the Washington Post, Nov. 10, 1985]

WHY BOSSES LIKE TO BE TOLD TO HIRE MINORITIES

(By Peter C. Robertson)

President Reagan is being urged to weaken enforcement of affirmative action programs for federal contractors. The proposition has divided the Cabinet, stalling action. But if Reagan still is trying to make up his mind, here's a message from the business community: Go slow.

Although business has major problems with the program, it now supports the basic principles of affirmative action as implemented under Presidents Kennedy, Johnson, Nixon, Ford and Carter.

The reasons corporations are not interested in seeing those principles weakened have more to do with business than with civil rights. Business—led by the National Association of Manufacturers—sees that its own self-interest requires affirmative action. And if the Reagan administration thinks American business will thank it for weakening affirmative action enforcement, then the administration isn't listening to what businessmen outside the Beltway are saying.

The government's present affirmative action program requires companies doing business with the federal government to have written affirmative action plans including goals and timetables to increase the employment of qualified minorities and women where they are "under-utilized." Press reports indicate the administration may no longer require goals and timetables and might even prohibit their voluntary use as a management tool.

There are at least 10 good reasons that business, while seeking administrative reforms, might take a position that voluntary goals and timetables should continue to be allowed and government should have some kind of mandatory program:

1. *Changing Labor Market:*

Women and minorities will be 75 percent of labor force growth between 1990 and 2000. Employers without plans to eliminate barriers to hiring or promoting those groups will be cut off from a major part of America's labor force.

C.W. Parry, chief executive officer at Alcoa, recently sent a memo to all employes noting that Alcoa's "best prospects for survival and growth lie in our skillful selection of the best individuals" from a "broad-based talent pool that includes women and minorities."

2. *Minimizing Risk of Reverse Discrimination Suits:*

In a recent survey of chief executive officers by the management consulting firm for which I work, 95 percent indicated that they will use numbers as a management tool to measure corporate progress whether the government requires them or not. However, once the government requirements are gone, there would be a risk of so-called "reverse discrimination" suits alleging that employers have gone too far with affirmative action.

The continuation of a responsible and balanced government program that sanctions goals and timetables will make it less likely that such suits will be successful, according to National Association of Manufacturers President Alexander Trowbridge.

3. *Compatibility with Management:*

The use of goals and timetables and other numerical measures to track the employment of minorities and women is consistent with how corporations deal with all important areas.

In recent meetings with more than 150 companies, the consistent question we were asked was "If we can't count, how can we measure? If we can't measure, how can we manage?"

William McEwen, director of equal-opportunity affairs at Monsanto Co. in St. Louis and chairman of the human resources steering group of the NAM, told a House of Representatives subcommittee in July that "business . . . sets goals and timetables for every aspect of its operations—profits, capital investment, productivity increases and promotional potential for individuals. Setting goals and timetables for minority and female participation is a way of measuring progress and focusing on potential discrimination."

Senior corporate officials clearly recognize that managers must be measured on all of the things they are expected to do.

A survey of more than 200 major companies found 76 percent saying they used "voluntary internal numerical objectives to assess [equal employment opportunity] performance." One-fourth of the companies said that incentive compensation plans for managers include equal employment objectives and that performance against those objectives can affect incentive payments positively or negatively. By 1988 more than half the companies predict they will be basing incentive pay in part on EEO performance.

4. *Use of Numbers as a Defense:*

One proposal might eliminate the possibility that businesses could use goals and timetables even voluntarily or point to progress in minority and female employment as part of the evidence in defending against discrimination charges, although the Supreme Court has emphasized the appropriateness of such a defense. Employers clearly want to use their progress as a defense and to be able to avoid further government investigations of their activities if they have done well, as measured by the numbers of minorities and females they employ.

At the same time, the program does not require any quotas. The goals and timetables program is a flexible one that business can live with. Ralph P. Davidson, board chairman of Time, Inc. told Congress that at "no time [was his company] subject to anything resembling 'quotas' [and that they] weren't presented with rigid, predetermined statistics for the hiring of women and minorities." He said that the government never tried "to dictate a final, inflexible result."

5. *State and Local Government Programs:*

Historically, large companies opposed federal regulations pleading states' rights. However, today they prefer the uniformity of a single federal regulation, even if the companies don't always like all the details, to having to meet a multiplicity of state and local regulations.

One national financial services company presently has affirmative action programs with 60 local jurisdictions, each of which calculates its requirements differently.

Recently, NAM President Trowbridge has noted that if states and cities believe the federal program is inadequate, it could lead to a proliferation of "conflicting and complicated standards" that "are bound to cost more ultimately and result in less effective programs." Trowbridge has called for reforms in the federal program without amending the underlying executive order. The NAM believes that such amendments would be "ill-advised," in part, because they might trigger such state and local action.

6. *Avoiding Inflexible Federal Legislation:*

Employers are concerned that Congress might freeze the present program into law and thus deny flexibility to alter the regulations. Rep. Augustus F. Hawkins (D-Calif.), chairman of the House Education and Labor Committee, has pledged legislative action should the executive order be weakened. He would probably get bipartisan support in both houses. Sen. Robert Dole (R-Kan.) urged the president not to weaken the new executive order and congressman and senators of both parties have written him strong letters supporting a similar position.

7. *Employee Morale and Productivity:*

Companies who have made significant progress in hiring minorities and women

would have morale and productivity problems if their employes believe that the federal government is reducing its commitment to affirmative action, particularly if they believe that business pressure led to such a change.

For example, IBM now has 30,000 minority employes and 30,000 women who would not be there if the company's percentage of minority and female employment was the same as it had been in the early 60's. Such a company needs its employes to think affirmative action is being eliminated like it needs a corporate hole in the head. In fact, IBM's chief executive officer, John Akers, just issued an IBM-style, 16-page report on its affirmative action program with statistics and a description of the company's programs to achieve these gains. Similar reports have been issued by others: Schering-Plough, Philip Morris, Exxon, AT&T, Westinghouse, and Chemical Bank to mention just a few.

The Alcoa memo noted that Alcoa would continue its programs "whatever the government's eventual position." In a similar vein, Davidson, of Time, Inc., told a House Judiciary subcommittee this week that "when press reports indicated that [the presidential order on affirmative action] might be weakened or watered down, Time, Inc. issued a statement [that] "should this happen, we want to assure you we will maintain our affirmative action program. We have been well served by that program including the setting of internal hiring and promotion goals for minorities and women. . . .'"

8. *Faith in the Legal System:*

Corporations have a vested interest in our legal system and citizen faith in that system. Laws prohibiting discrimination were preceded by demonstrations by those who had no faith that we could solve our problems by law. President Kennedy wanted to achieve civil rights under law. The late Republican Sen. Everett M. Dirksen (R-Ill.) spoke of "an idea whose time had come" and helped achieve Kennedy's dream of getting the problem out of the streets and into the courts. Employers may argue with how government regulations are applied but they would rather have these arguments occur in a legal framework than in the Streets.

9. *Third Party Pressures:*

If faith in the ability of the legal system to increase employment opportunities were to fade, we may not see marches in the streets again, but we will certainly see increasing pressure on employers from outside the legal system. Already, private civil rights organizations have substantially increased their demands for affirmative action plans or fair share agreements outside the context of government requirements. Most employers would prefer to deal with the government, even when perceived as slightly misguided, than to negotiate the details of how they do business with a wide variety of competing private groups whose standards are not subject to judicial review.

10. *Management Flexibility.—The Deregulatory Issue:*

This is perhaps the most important reason employers favor continued use of voluntary goals and timetables and even support appropriately crafted mandatory ones. NAM president Trowbridge made the point when he pointed out that retaining flexible goals and timetables as a measure of good faith compliance to ensure progress would "give business the necessary guidelines to ensure compliance with federal mandates," and pointed out that "absent such guidelines, individual enforcement officers will be left with decisions as to what comprises compliance with affirmative action."

The present rules mandating goals and timetables were adopted by the Nixon administration, in part at the request of business, in essence as a deregulatory move in the area of employment discrimination and affirmative action.

Under pre-Nixon programs, there were major confrontations with government investigators concerning the adequacy of specific details in corporate affirmative action programs. The Nixon pro-business, deregulatory approach was to adopt goals and timetables as an objective measure of corporate progress and thus eliminate many of the arguments about the adequacy of specific programs. In fact, in the lead Supreme Court decision approving race-conscious affirmative action using numbers, the court said that such approval was given in part because of this deregulatory aspect. The court noted that to allow appropriately circumscribed race-conscious affirmative action would permit employers to comply in accord with "traditional management prerogatives" and was consistent with the congressional desire to implement anti-discrimination requirements in a fashion that would "avoid undue federal regulation to private businesses."

It would be ironic indeed if an administration known for its deregulation program and its desire to help business were to go in the exact opposite direction in dealing with affirmative action. The president ought to think twice before eliminating a program begun under a Republican president with business support and originally implemented by George P. Shultz when he was Secretary of Labor.

The president ought to think twice before eliminating an objective numerical measure and substituting bureaucratic examination of the details of employers' practices to see if they meet government standards. He ought to think twice before doing something that might lead to a proliferation of competing and uncontrollable pressures on business from state and local governments and civil rights groups; and he should certainly think twice before taking a step that much of his own business constituency believes is ill-conceived.

[From the New York Times, Nov. 25, 1985]

KEEP FEDERAL AFFIRMATIVE ACTION STRONG

(By Ralph P. Davidson)

Imagine a Government program that's been supported by five Presidents, Republicans and Democrats in both houses of Congress, the A.F.L.-C.I.O. and the National Association of Manufacturers. Imagine, too, a program credited with increasing the participation of women and minorities in our economy at small cost to taxpayers. Such a program, combining the goals of social justice with economic common sense, might seem an abstract ideal. It already exists. It's called affirmative action.

Affirmative action was set in place almost a quarter century ago by President John F. Kennedy and strengthened by the executive order signed into law by President Lyndon B. Johnson in 1965. Since then, affirmative action has proven its worth, using the leverage of Federal contracts and public investment to create equal job opportunities and thus translate the dreams of the civil rights struggle into reality.

Now there's pressure in the Administration to change the executive order by removing the statistical measurements—the "goals and timetables"—that give affirmative action its teeth. Proponents of this change base their case on three major points.

First, they argue that the order creates racial "quotas"—fixed and unalterable percentages to be met at any cost. "Quota" is a word that rankles and outrages many people, and if the order had in fact established quotas, pressure to rewrite it would have arisen long ago.

But this hasn't been the case. Most companies supported—and continue to support—the executive order. Why? For the simple reason that affirmative action isn't a bureaucratic inquisition aimed at enforcing a quota system. It hasn't meant the imposition of inflexible numbers. What it has meant is that those doing business with the Government must demonstrate a "good faith" effort to give women and monorities a fair share of the opportunities generated by Federal contracts. Instead of coercing businesses to follow a course they would otherwise resist, this requirement has, in many cases, reinforced already existing private sector affirmative action programs.

Second, opponents of the executive order complain that it constitutes a hidden tax, adding needlessly to the expenses of companies forced to keep records of their attempts to comply. But this ignores the fact that most companies routinely establish explcit goals to be met within prescribed periods of time. "Management-by-objective" isn't a creature of affirmative action. It's a tested business technique, and, as applied to hiring, it's an effective way of tapping new talent and opening avenues for those who, no matter how talented or ambitious, were denied advancement because of race or sex.

The third objection is that affirmative action is unnecessary. Now that de jure discrimination has been dismantled, the argument goes, the way is clear for women and minorities. The free market will do the rest.

In a time of economic growth and relative prosperity, it's tempting to believe this. Unfortunately, the statistics tell another story. While the poverty rate recently showed an overall decline, it's still significantly higher than a decade ago. The rate for Hispanics actually rose. Unemployment is more than twice as high for blacks as for whites. Female-headed households still make up the bulk of the disadvantaged.

The bottom line is that the same people who suffered the most from the deep cuts in social spending of the past few years—in housing, education, job training, nutrition, child care—also profited the least from economic growth. For most of them, there is no fabled ladder of economic opportunity but rather a treadmill of underemployment and joblessness, of opportunities forever beyond their reach.

Any change in the executive order would only deprive us of one of the few proved and practical means we have of helping people stand on their own feet. It would open the way for the slow unraveling of all the hard-won gains of the past two decades.

Two centuries ago, Edmund Burke pointed out that "a state without the means of some change is without the means of its own conservation." Affirmative action is the means of constructive change. With it, we can continue to open doors to those long denied the opportunity to compete. The executive order should be affirmed. The door should not be closed.

NATIONAL ASSOCIATION OF MANUFACTURERS,
November 27, 1985.

Hon. RONALD REAGAN,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: On behalf of the National Association of Manufacturer's 13,500 members, we urge you not to revise Executive Order 11246 affecting affirmative action requirements for federal contractors. NAM believes the current Executive Order provides the framework for an effective affirmative action policy. Since it was signed into law, dramatic progress has been achieved in incorporating talented minorities and women into our workforce. Companies affiliated with NAM have consistently expressed the belief that the Executive Order has served as a major impetus in achieving a diverse workforce.

NAM's Board of Directors, representing small and large companies throughout the country, in May adopted policy which stated that the use of goals is an effective affirmative action tool. This policy has continued to receive enthusiastic support from our members.

While NAM opposes the use of hiring quotas, whether government-imposed or self-imposed, they are significantly distinct from goals and timetables. They mandate that a pool of qualified applicants of all races, national origin and sex be given the opportunity to be hired. Further goals and timetables are used in many aspects of business operations to measure progress and are an integral component of most companies' personnel functions.

NAM believes the Executive Order is sound policy, but we continue to urge reforms in the implementing regulations of the Office of Federal Contract Compliance. More flexibility should be given to companies in complying with their goals and timetables. Good faith compliance should be the measure of progress. However, the business community is concerned that the elimination of goals and timetables could result in confusing compliance standards on federal, state and municipal levels and a proliferation of reverse discrimination suits.

Though we support some fine-tuning of the implementing regulations, the NAM believes that Executive Order 11246 has benefited our country and should be continued to ensure the continued participation of all segments of our society in our nation's economy.

Thank you for your consideration of NAM's views on this issue.

Sincerely,

A.B. TROWBRIDGE.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:51 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 727. An act to clarify the application of the Public Utility Holding Company Act of 1935 to encourage cogeneration activities by gas utility holding company systems.

The message also announced that the House agrees to the amendment of the Senate to the following bill:

H.R. 3003. An act to authorize the Secretary of the Interior to convey certain land located in the State of Maryland to the Maryland-National Capital Park and Planning Commission.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3735. An act to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Historical Park as the "Goodloe E. Byron Memorial Pedestrian Walkway."

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 1:59 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:

H.R. 1789. An act relating to the authorization of appropriations for certain components of the National Wildlife Refuge System;

H.R. 3424. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1986, and for other purposes; and

H.J. Res. 424. Joint resolution to designate the year of 1986 as the "Year of the Flag."

The enrolled bill H.R. 3424 was subsequently signed by the President pro tempore [Mr. THURMOND].

At 7:13 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1116. An act to amend the Act of October 15, 1982, entitled "An Act to designate the Mary McLeod Bethune Council House in Washington, District of Columbia, as a national historic site, and for other purposes."

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 84. A concurrent resolution to authorize the temporary placement of a bust of the late Dr. Martin Luther King, Jr., in the rotunda of the Capitol for dedication ceremonies, and for other purposes.

The message further announced that the House disagrees to the amendments of the Senate to the bill (H.R. 3037) making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1986, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. WHITTEN, Mr. TRAXLER, Mr. MCHUGH, Mr. NATCHER, Mr. AKAKA, Mr. WATKINS, Mr. DURBIN, Mr. SMITH of Iowa, Mrs. SMITH of Nebraska, Mr. MYERS of Indiana, Mr. ROGERS, Mr. SKEEN, and Mr. CONTE as managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the title of the bill (H.R. 3128) to make changes in spending and revenue provisons for purposes of deficit reduction and program improvment, consistent with the budget process; and that the House agrees to the amendment of the Senate to the text of the bill, with an amendment, in which it requests the concurrence of the Senate; it insists upon its amendment to the amendment of the Senate to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House:

From the Committee on the Budget, for consideration of the entire Senate amendment and the entire House amendment to the Senate amendment, except for sections 778H, 778I, 780, 781, 783 through 789B, 789D through 789G, subpart A of part 3 of subtitle I of title VII, section 793, subsections (a), (b), (c), (f), and (g)(1) of section 794, and sections 795 and 796 of the Senate amendment, and except for sections 502(a) and 503 of the House amendment to the Senate amendment: Mr. GRAY of Pennsylvania, Mr. DERRICK, Mr. WOLPE, Mr. BARNES, Mr. SCHUMER, Mrs. BOXER, Mr. MACKAY, Mr. SLATTERY, Mr. ATKINS, Mr. LATTA, Mrs. MARTIN of Illinois, Ms. FIEDLER, Mr. GOODLING, Mr. SMITH of Oregon, Mr. DENNY, and Mr. WEBER.

From the Committee on Ways and Means, solely for the consideration of sections 144(b)(3), 204, and 205, subtitles A, C-F, H, and I of title VII, part G of title IX, and part I of title IX of the Senate amendment, and of subtitles B and C of title III and section 1974 of division A, and all of division B, of the House amendment to the Senate amendment: Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. JONES of Oklahoma, Mr. JACOBS, Mr. FORD of Tennessee, Mr. JENKINS, Mr. GEPHARDT, Mr. DOWNEY of New York, Mr. DUNCAN, Mr. CRANE, Mr. GRADISON, Mr. CAMPBELL, Mr. THOMAS of California, and Mr. MCGRATH.

From the Committee on Agriculture, solely for the consideration of title I and section 536 of the Senate amendment: Mr. DE LA GARZA, Mr. JONES of Tennessee, Mr. PANETTA, Mr. COELHO, Mr. BEDELL, Mr. MADIGAN, Mr. EMERSON, Mr. JEFFORDS, and Mr. COLEMAN of Missouri.

From the Committee on Agriculture, solely for the consideration of subpart B of part 3 of subtitle I of title VII of the Senate amendment: Mr. DE LA GARZA, Mr. ROSE, Mr. JONES of North Carolina, Mr. HATCHER, Mr. WHITLEY, Mr. TALLON, Mr. THOMAS of Georgia, Mr. HOPKINS, Mr. ROBERTS, Mr. FRANKLIN, and Mr. COMBEST.

From the Committee on Agriculture, solely for the consideration of section 2502(b) of division B of the House amendment to the Senate amendment: Mr. DE LA GARZA, Mr. ROSE, Mr. WHITLEY, Mr. HOPKINS, and Mr. ROBERTS.

From the Committee on Armed Services, solely for the consideration of title II and section 165 of the Senate amendment, and title I of division A of the House amendment to the Senate amendment: Mr. ASPIN, Mr. MONTGOMERY, Mrs. SCHROEDER, Mr. DICKINSON, and Mr. HILLIS.

From the Committee on Banking, Finance and Urban Affairs, solely for the consideration of title III of the Senate amendment and of title II of division A of the House amendment to the Senate amendment: Mr. ST GERMAIN, Mr. GONZALEZ, Mr. MITCHELL, Mr. LUNDINE, Ms. OAKAR, Mr. VENTO, Mr. FRANK, Mr. WYLIE, Mr. MCKINNEY, Mrs. ROUKEMA, and Mr. BARTLETT.

From the Committee on Banking, Finance and Urban Affairs, solely for the consideration of subtitle A of title IV of division A of the House amendment to the Senate amendment: Mr. ST GERMAIN, Mr. LAFALCE, Mr. LUNDINE, Mr. WYLIE, and Mr. SHUMWAY.

From the Committee on Education and Labor, solely for the consideration of parts A through E of title IX of the Senate amendment, and of subtitle A of title III of division A of the House amendment to the Senate amendment: Mr. HAWKINS, Mr. FORD of Michigan, Mr. BIAGGI, Mr. WILLIAMS, Mr. OWENS, Mr. HAYES, Mr. PERKINS, Mr. BRUCE, Mr. JEFFORDS, Mr. COLEMAN of Missouri, Mr. GUNDERSON, Mr. MCKERNAN, and Mr. HENRY.

From the Committee on Education and Labor, solely for the consideration of section 746(d), subtitle H of title VII, section 782, and parts G and I of title IX of the Senate amendment, and of subtitles B and C of title III of division A, and of section 2181 and title VI of division B, of the House amendment to the Senate amendment: Mr. HAWKINS, Mr. FORD of Michigan, Mr. GAYDOS, Mr. CLAY, Mr. BIAGGI, Mr. KILDEE, Mr. OWENS, Mr. HAYES, Mr. DYMALLY, Mr. ATKINS, Mr. JEFFORDS, Mr. PETRI, Mrs. ROUKEMA, Mr. BARTLETT, Mr. CHANDLER, Mr. ARMEY, and Mr. FAWELL.

From the Committee on Education and Labor, solely for the consideration of part F of title IX of the Senate amendment: Mr. HAWKINS, Mr. MURPHY, Mr. CLAY, Mr. WILLIAMS, Mr. JEFFORDS, Mr. PETRI, and Mr. BARTLETT.

From the Committee on Energy and Commerce, solely for the consideration of sections 706 and 713-716, parts 2-5 of subtitle A of title VII (except for section 734), subtitle B of title VII (except for subsections (d) and (e)(2)-(4) of section 746), sections 769B, 770, 772 774, and 782, and parts G and H of title IX of the Senate amendment, and of section 1974 of division A, and of section 2107, parts B-G of title I, and section 2302 of division B of the House amendment to the Senate amendment: Mr. DINGELL, Mr. WAXMAN, Mr. SCHEUER, Mr. LUKEN, Mr. WALGREN, Ms. MIKULSKI, Mr. LELAND, Mrs. COLLINS, Mr. WYDEN, Mr. BROYHILL, Mr. MADIGAN, Mr. DANNEMEYER, Mr. WHITTAKER, Mr. BILIRAKIS, and Mr. BLILEY.

From the Committee on Energy and Commerce, solely for the consideration of those portions of section 789C of the Senate amendment inserting subsections 9505 (c), (d), and (e) in the Internal Revenue Code: Mr. DINGELL, Mr. ECKART of Ohio, Mr. HALL of Texas, Mr. TAUZIN, Mr. DOWDY of Mississippi, Mr. LUKEN, Mr. SWIFT, Mr. SHELBY, Mr. SYNAR, Mr. BROYHILL, Mr. LENT, Mr. RITTER, Mr. FIELDS, Mr. COATS, and Mr. SCHAEFER.

From the Committee on Energy and Commerce, solely for the consideration of sections 501, 502, 521-524, and 536 of the Senate amendment, of subtitles A-E of title IV and subtitles B and C of title VIII of division A of the House amendment to the Senate amendment: Mr. DINGELL, Mr. SHARP, Mr. MARKEY, Mr. WALGREN, Mr. SWIFT, Mr. LELAND, Mr. SHELBY, Mr. SYNAR, Mr. TAUZIN, Mr. BROYHILL, Mr. DANNEMEYER, Mr. MOORHEAD, Mr. WHITTAKER, Mr. OXLEY, and Mr. ECKERT of New York.

From the Committee on Energy and Commerce, solely for the consideration of sections 403 and 404 of the Senate amendment, and subtitle F of title IV of division A of the House amendment to the Senate amendment: Mr. DINGELL, Mr. WIRTH, Mr. SCHEUER, Mr. LUKEN, Mr. SWIFT, Mr. LELAND, Mrs. COLLINS, Mr. SYNAR, Mr. TAUZIN, Mr. BROYHILL, Mr. RINALDO, Mr. TAUKE, Mr. OXLEY, Mr. MOORHEAD, and Mr. NIELSON of Utah.

From the Committee on Energy and Commerce, solely for consideration of sections 401, 402, 408, 769G, 777(h)(1), and subsections (d), (e), (g)(2) and (g)(3) of section 794, of the Senate amendment, and of subtitles G and H of title IV of division A, and of sections 2252(b) and 2402 of division B of the House amendment to the Senate amendment: Mr. DINGELL, Mr. FLORIO, Mr. SHARP, Mr. TAUZIN, Mr. HALL of Texas, Mr. ECKART of Ohio, Mr. DOWDY of Mississippi, Mr. RICHARDSON, Mr. SLATTERY, Mr. BROYHILL, Mr. LENT, Mr. RITTER, Mr. COATS, Mr. TAUKE, and Mr. FIELDS.

From the Committee on Government Operations, solely for consideration of subtitle G of title VII of the Senate amendment: Mr. BROOKS, Mr. FUQUA, Mr. WEISS, Mr. HORTON, and Mr. WALKER.

From the Committee on Government Operations, solely for consideration of section 523 and parts C and D of title VIII of the Senate amendment, and of subtitle E of title IV of division A of the House amendment to the Senate amendment: Mr. BROOKS, Mr. FUQUA, Mrs. COLLINS, Mr. HORTON, and Mr. MCCANDLESS.

From the Committee on Interior and Insular Affairs, solely for consideration of sections 521, 522, and 531-535 of the Senate amendment, and of subtitle C of title IV, section 1542, title V, subtitles D and H of title VI, and subtitle C of title VIII, of division A of the House amendment to the Senate amendment: Mr. UDALL, Mr. SEIBERLING, Mr. WEAVER, Mr. MILLER of California, Mr. SHARP, Mr. RAHALL, Mr. VENTO, Mr. HUCKABY, Mr. GEJDENSON, Mr. YOUNG of Alaska, Mr. LUJAN, Mr. LAGOMARSINO, Mr. MARLENEE, Mr. CHENEY, and Mr. PASHAYAN.

From the Committee on the Judiciary, solely for consideration of section 982 and that portion of section 999 amending paragraph (2) of section 4074(c) of the Employee Retirement Income Security Act, of the Senate amendment, and of that portion of section 1458 inserting subsection 4041(C)(2)(B)(iii) in the Employee Retirement Income Security Act, of division A, and section 2124(b) of division B, of the House amendment to the Senate amendment: Mr. RODINO, Mr. GLICKMAN, Mr. EDWARDS of California, Mr. FISH, and Mr. KINDNESS.

From the Committee on Merchant Marine and Fisheries, solely for consideration of sections 405, 406, 407, and 531-535 of the Senate amendment, and of titles V and VI of division A of the House amendment to the Senate amendment: Mr. JONES of North Carolina, Mr. BIAGGI, Mr. ANDERSON, Mr. BREAUX, Mr. STUDDS, Ms. MIKULSKI, Mr. LOWRY of Washington, Mr. BOSCO, Mr. HUGHES (except as listed below), Mr. TAUZIN (in lieu of Mr. HUGHES solely for consideration of sections 531-535 of the Senate amendment and title V and subtitles D and H of title VI of division A of the House amendment to the Senate amendment), Mr. LENT, Mr. SNYDER, Mr. YOUNG of Alaska (except as listed below), Mr. DAVIS, Mr. CARNEY (in lieu of Mr. YOUNG of Alaska solely for consider-

ation of section 531-535 of the Senate amendment and title V and subtitles D and H of title VI of division A of the House amendment to the Senate amendment), Mr. SHUMWAY, and Mr. FIELDS.

From the Committee on Post Office and Civil Service, solely for consideration of section 769G and parts A and B of title VIII of the Senate amendment, and of title VII of division A of the House amendment to the Senate amendment: Mr. FORD of Michigan, Mr. LELAND, Ms. OAKAR, Mr. TAYLOR, and Mr. GILMAN.

From the Committee on Public Works and Transportation, solely for consideration of title VI, sections 777(h)(2) and 1202, and those portions of section 789C inserting subsections 9505 (c), (d), and (e) in the Internal Revenue Code, of the Senate amendment, and of sections 1533, 1541, and title VIII of division A, and section 2252(c) of division B of the House amendment to the Senate amendment: Mr. HOWARD, Mr. ANDERSON, Mr. ROE, Mr. MINETA, Mr. OBERSTAR, Mr. NOWAK, Mr. EDGAR, Mr. YOUNG of Missouri, Mr. RAHALL (except as listed below), Mr. SNYDER, Mr. HAMMERSCHMIDT, Mr. SHUSTER, Mr. STANGELAND, Mr. GINGRICH, Mr. CLINGER and Mr. BREAUX (in lieu of Mr. RAHALL solely for consideration of section 1541 and subtitle B of title VIII of division A of the House amendment to the Senate amendment).

From the Committee on Science and Technology, solely for consideration of sections 406(a)-(c), (e)-(g), and (i) of the Senate amendment: Mr. FUQUA, Mr. SCHEUER, Mr. WIRTH, Mr. LUJAN, and Mrs. SCHNEIDER.

From the Committee on Small Business, solely for consideration of title X of the Senate amendment and of title IX of division A of the House amendment to the Senate amendment: Mr. MITCHELL, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. MCDADE, and Mr. CONTE.

From the Committee on Veterans' Affairs, solely for consideration of section 205 and title XI of the Senate amendment, and of title X of division A of the House amendment to the Senate amendment: Mr. MONTGOMERY, Mr. EDGAR, Mr. APPLEGATE, Mr. HAMMERSCHMIDT, and Mr. WYLIE.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 3735. An act to designate the pedestrian walkway crossing the Potomac River at Harpers Ferry National Historical Park as the "Goodloe E. Byron Memorial Pedestrian Walkway"; to the Committee on Energy and Natural Resources.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, December 9, 1985, she had presented to the President of the United States the following enrolled bill:

S. 1264. An act to amend the National Foundation on the Arts and the Humanities Act of 1965, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 992: A bill to discontinue or amend certain requirements for agency reports to Congress (Rept. No. 99-211).

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. GARN (for himself and Mr. HATCH):

S. 1911. A bill to direct the Administrator of General Services to release, on behalf of the United States, certain conditions and reservations contained in a conveyance of land to the State of Utah; to the Committee on Energy and Natural Resources.

By Mr. DANFORTH (for himself, Mr. BENTSEN, Mr. MOYNIHAN, Mr. HATFIELD, Mr. HEINZ, Mr. LONG, Mr. WALLOP, Mr. PRYOR, Mr. MATSUNAGA, Mr. DURENBERGER, Mr. GRASSLEY, Mr. SYMMS, Mr. ROTH, Mr. BAUCUS, Mr. BOREN, Mr. MITCHELL, Mr. CHAFEE, Mr. ARMSTRONG, Mr. KERRY, Mr. LEVIN, Mrs. HAWKINS, Mr. D'AMATO, Mr. THURMOND, Mr. RIEGLE, Mr. SIMON, Mr. GORTON, Mr. BUMPERS, Mr. MATTINGLY, Mr. EXON, Mr. DENTON, Mr. STENNIS, Mr. BINGAMAN, Mr. DODD, Mr. EVANS, Mr. KENNEDY, Mr. HOLLINGS, Mr. HEFLIN, Mr. KASTEN, Mr. DECONCINI, Mr. SASSER, Mr. ZORINSKY, Mr. LAXALT, Mr. CRANSTON, Mr. GARN, Mr. DOMENICI, Mr. HARKIN, Mr. DIXON, Mr. GORE, Mr. SPECTER, Mr. ROCKEFELLER, Mr. NUNN, Mr. MELCHER, Mr. MCCLURE, Mr. COHEN, Mr. HECHT, Mr. SARBANES, Mr. PRESSLER, Mr. LAUTENBERG, Mr. ABDNOR, Mr. WILSON, Mr. COCHRAN, Mr. JOHNSTON, Mr. ANDREWS, and Mr. EAGLETON):

S. 1912. A bill to provide for a 6-month extension of certain temporary provisions relating to the Internal Revenue Code of 1954; to the Committee on Finance.

By Mr. D'AMATO:

S. 1913. A bill to amend and extend laws relating to housing and community development; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GORTON (for himself, Mr. DANFORTH, Mr. RIEGLE, Mr. HEFLIN, Mr. GORE, Mr. ROCKEFELLER, Mr. DOLE, Mr. HOLLINGS, and Mr. INOUYE):

S. 1914. A bill to amend the Stevenson-Wydler technology Innovation Act of 1980 to permit cooperative agreements between industry and laboratories owned and operated by the Federal Government, and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PELL (for himself and Mr. INOUYE):

S. Con. Res. 92. A concurrent resolution to affirm the national policy of metric conversion benefiting the United States; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GARN (for himself and Mr. HATCH):

S. 1911. A bill to direct the Administrator of General Services to release, on behalf of the United States, certain conditions and reservations contained in a conveyance of land to the State of Utah; to the Committee on Energy and Natural Resources.

CONVEYANCE OF CERTAIN LAND IN THE STATE OF UTAH

● Mr. GARN. Mr. President, the legislation Senator HATCH and I are introducing today is a housekeeping measure which will allow the Upland Industries Corp. to obtain approximately 150 acres of land from the State of Utah as part of an exchange with the State for 3,519 acres of prime wetlands, now owned by that company.

The 150-acre parcel of land is part of a larger tract of land deeded to the State of Utah by the Federal Government. The need for legislation at the Federal level stems from the existence of reversionary clauses on the land as well as a right to surface entry for mineral rights contained in a Quitclaim Deed conveyance from the United States through the General Services Administrator to the State of Utah dated July 26, 1950. In short, these State lands cannot be developed by the State or other private parties for purposes which may conflict with provisions contained in the reversionary clauses. This legislation will clear the title to these State lands and make it possible for a significant wetland habitat to be protected in northern Utah as a result of the exchange.

As a practical matter, the 150-acre tract of State land is now surrounded by industrial parks and other commercial development in the center of the Salt Lake Valley. The reversion clauses were written in 1950, a time in which these lands were agricultural range lands with no development anywhere near them. Any argument that these reversionary clauses still have application would be equivalent to saying the island of Manhattan should still be set aside as a wildlife refuge or a military base.

The Upland proposal is supported by the Governor of Utah and I am confident it will be supported by environ-

mental groups as well. I would hope the Senate will take action on this measure early in 1986.●

By Mr. DANFORTH (for himself, Mr. BENTSEN, Mr. MOYNIHAN, Mr. HATFIELD, Mr. HEINZ, Mr. LONG, Mr. WALLOP, Mr. PRYOR, Mr. MATSUNAGA, Mr. DURENBERGER, Mr. GRASSLEY, Mr. SYMMS, Mr. ROTH, Mr. BAUCUS, Mr. BOREN, Mr. MITCHELL, Mr. CHAFEE, Mr. ARMSTRONG, Mr. KERRY, Mr. LEVIN, Mrs. HAWKINS, Mr. D'AMATO, Mr. THURMOND, Mr. RIEGLE, Mr. SIMON, Mr. GORTON, Mr. BUMPERS, Mr. MATTINGLY, Mr. EXON, Mr. DENTON, Mr. STENNIS, Mr. BINGAMAN, Mr. DODD, Mr. EVANS, Mr. KENNEDY, Mr. HOLLINGS, Mr. HEFLIN, Mr. KASTEN, Mr. DECONCINI, Mr. SASSER, Mr. ZORINSKY, Mr. LAXALT, Mr. CRANSTON, Mr. GARN, Mr. DOMENICI, Mr. HARKIN, Mr. DIXON, Mr. GORE, Mr. SPECTER, Mr. ROCKEFELLER, Mr. NUNN, Mr. MELCHER, Mr. MCCLURE, Mr. COHEN, Mr. HECHT, Mr. SARBANES, Mr. PRESSLER, Mr. LAUTENBERG, Mr. ABDNOR, Mr. WILSON, Mr. COCHRAN, Mr. JOHNSTON, Mr. ANDREWS, and Mr. EAGLETON):

S. 1912. A bill to provide for a 6-month extension of certain temporary provisions relating to the Internal Revenue Code of 1954; to the Committee on Finance.

EXTENSION OF CERTAIN TEMPORARY PROVISIONS OF THE INTERNAL REVENUE CODE

Mr. DANFORTH. Mr. President, I am joining today with Senators BENTSEN, MOYNIHAN, HATFIELD and a majority of our colleagues in introducing legislation to deal with numerous provisions of our income tax laws which either have expired in recent months or are scheduled to expire at the end of this year.

The bill is quite simple. It extends all expiring (or expired) provisions until June 30, 1986. I emphasize that all expiring provisions would be extended under the bill. The bill is not selective. It does not deal only with provisions I (or one of the other cosponsors) personally support. In fact, the bill includes certain provisions which I believe should be either eliminated from the Internal Revenue Code or substantially modified.

The reason for extending all expiring provisions is that under normal circumstances both the Senate and the House of Representatives would have examined these expiring provisions during the regular course of this past year and would have made a legislative decision whether each of the provisions should be extended or allowed to expire. This past year, however, has been anything but normal as far as tax legislation is concerned.

In November 1984, the Treasury Department released a three volume report containing detailed proposals for an in-depths revision of the Internal Revenue Code. On May 28, 1985, President Reagan sent Congress his proposals for specific changes and modifications to our income tax laws.

Upon receiving the President's proposals, the House and the Senate commenced the most extensive and comprehensive series of hearings ever held on tax reform. Following these hearings, the staffs of the Joint Committee on Taxation and the Committee on Ways and Means prepared a set of tax reform options for consideration by the Committee on Ways and Means. In the last several months, that committee has marked up tax legislation which incorporates some concepts from the original Treasury report, some concepts from the President's proposals, some concepts from the staff options and some entirely new concepts. The entire House of Representatives will vote on this legislation later this week.

The process of drafting major tax legislation is a time-consuming one that leaves taxpayers in an unfortunate quandry. The original Treasury report, the President's proposals, the staff options and the bill reported by the Committee on Ways and Means all deal with the expiring provisions covered by our bill in different ways. The uncertainty created by this legislative process is unfair to the taxpayer and unhealthy for the economy.

Our bill does not deal with all of the implications that repeal or modification of various income tax laws would have on the economy. Nor does our bill deal with the question of the appropriate effective date for certain tax law changes. We merely propose to extend for 6 months current law for those provisions which have already expired or are scheduled to expire in the near future. If the House passes its tax bill and the Senate agrees with the House's treatment of one or more of the expiring provisions, a different effective date for such provisions may well be appropriate. In the meantime, however, I believe it is only fair that these expiring provisions be extended to provide some certainty for taxpayers and to give the Senate an opportunity to determine in the regular course of the legislative process whether each provision should be allowed to expire, be extended or modified in accordance with a House-passed bill, or be extended or modified under other conditions.

Mr. President, I think it is important to note two additional points relating to our bill. First, several of the expiring provisions in the bill have already been examined by the Senate in the context of the budget reconciliation bill. Some of these provisions—for example, the award of attorneys fees in Tax Court cases—were treated differently than a mere extension of current law. Nothing in our bill should be interpreted as an explicit or implicit change in the position of the Senate with respect to the items covered by the reconciliation bill.

Second, our bill does not address expired or expiring excise taxes such as the Superfund tax on certain chemicals. Our bill deals almost exclusively with income tax provisions, and, while extension of the excise taxes mentioned above may be necessary, we did not feel this bill was the appropriate vehicle for such action.

Mr. President, I request unanimous consent that the text of our bill be included in the RECORD immediately following my remarks.

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

S. 1912

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

SECTION 1. ALLOCATION UNDER SECTION 861 OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

Subsection (c)(1) of section 126 of the Deficit Reduction Act of 1984 is amended by striking out "August 1, 1985" and inserting in lieu thereof "June 30, 1986".

SEC. 2. CREDIT FOR INCREASED RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) IN GENERAL.—Section 30 of the Internal Revenue Code of 1954 (relating to credit for increasing research activities) is amended by adding at the end thereof the following new subsection:

"(h) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to any amount paid or incurred after June 30, 1986.

"(2) COMPUTATION OF BASE PERIOD EXPENSES.—In the case of any taxable year which begins before July 1, 1986, and ends after June 30, 1986, the amount of qualified research expenses taken into account for the base period with respect to such taxable year shall be the amount which bears the same ratio to the total qualified research expenses for such base period as the number of days in such taxable year before July 1, 1986, bears to the total number of days in such taxable year.".

(b) CONFORMING AMENDMENT.—Subsection (d) of section 221 of the Economic Recovery Tax Act of 1981 is amended—

(1) by striking out ", and before January 1, 1986" in paragraph (1), and

(2) by striking out the last sentence of paragraph (2)(A).

SEC. 3. EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATION BARRIERS TO THE HANDICAPPED AND ELDERLY.

Paragraph (2) of section 190(d) of the Internal Revenue Code of 1954 (relating to application of section) is amended by striking out "January 1, 1986" and inserting in lieu thereof "July 1, 1986".

SEC. 4. NET OPERATING LOSS RULES ADDED BY THE TAX REFORM ACT OF 1976.

Subsection (g) of section 806 of the Tax Reform Act of 1976 is amended—

(1) by striking out "December 31, 1985" in paragraph (2) and inserting in lieu thereof "June 30, 1986", and

(2) by striking out "January 1, 1986" in paragraphs (2)(B) and (3) and inserting in lieu thereof "July 1, 1986".

SEC. 5. MORATORIUM ON ISSUANCE OF REGULATIONS RELATING TO FACULTY HOUSING.

Paragraphs (1) and (3) of section 531(g) of the Tax Reform Act of 1984 are each amended by striking out "January 1, 1986" and inserting in lieu thereof "July 1, 1986".

SEC. 6. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (3) of section 51(c) of the Internal Revenue Code of 1954 (defining wages qualifying for targeted jobs credit) is amended by striking out "December 31, 1985" and inserting in lieu thereof "June 30, 1986".

(b) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "fiscal years 1983, 1984, and 1985" and inserting in lieu thereof "fiscal years 1983, 1984, 1985, and 1986".

SEC. 7. AWARDING OF COURT COSTS AND CERTAIN FEES.

Subsection (f) of section 7430 of the Internal Revenue Code of 1954 (relatiing to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "June 30, 1986".

SEC. 8. EDUCATIONAL ASSISTANCE PROGRAMS.

Subsection (d) of section 127 of the Internal Revenue Code of 1954 (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "June 30, 1986".

SEC. 9. AMOUNTS RECEIVED UNDER QUALIFIED GROUP LEGAL SERVICES PLANS.

Subsection (e) of section 120 of the Internal Revenue Code of 1954 (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "June 30, 1986".

SEC. 10. QUALIFIED TRANSPORTATION PROVIDED BY EMPLOYER.

Subsection e) of section 124 of the Internal Revenue Code of 1954 (relating to effective date) is amended by striking out "January 1, 1986" and inserting in lieu thereof "July 1, 1986".

SEC. 11. DIVIDEND REINVESTMENT.

Paragraph (12) of section 305(e) of the Internal Revenue Code of 1954 (relating to termination) is amended by striking out "December 31, 1985" and inserting in lieu thereof "June 30, 1986".

SEC. 12. BUSINESS ENERGY CREDITS.

Subparagraph (A) of section 46(b)(2) of the Internal Revenue Code of 1954 (relating to energy percentage) is amended by striking out "Dec. 31. 1985" each place it appears in the table and inserting in lieu therof "June 30, 1986".

SEC. 13. RESIDENTIAL ENERGY CREDIT.

Subsection (f) of section 23 of the Internal Revenue Code of 1954 is amended by striking out "December 31, 1985" and inserting in lieu thereof "June 30, 1986".

SEC. 14. SOCIAL SECURITY COVERAGE OF RETIRED FEDERAL JUDGES ON ACTIVE DUTY.

Section 4 of Public Law 98-118 is amended—

(1) by striking out "December 31, 1985" and inserting in lieu thereof "June 30, 1986"; and

(2) by striking out "January 1, 1986" and inserting in lieu thereof "July 1, 1986".

Mr. BENTSEN. Mr. President, I am happy to join today with my good friend Senator DANFORTH in introducing this bill to extend expiring tax provisions. A total of 64 Members of the Senate are sponsors or cosponsors of this bill, including 17 of the 20 Members of the Finance Committee.

What this bill does is very simple: It extends for 6 months all the tax expenditure provisions that are scheduled to expire at the end of 1985. There are a number of such provisions, including the R&D tax credit, the energy tax credits, the targeted jobs tax credit, the tax exemption for group legal plans and employer-provided educational assistance, and the moratorium on IRS enforcement of the 1976 net operating loss carryover rules. We made no effort to pick and choose among expiring tax provisions; the bill extends all the provisions equally. There are some items on the list that I am not entirely sympathetic with, and I know that that is also the case with Senator DANFORTH and probably with each of the other cosponsors.

Although there are some expiring provisions that some of us would prefer not to extend, we all feel it is important for individuals and businesses to know what the tax rules are for the next several months before the Senate acts on the tax reform bill. Sometimes we in the Senate overlook the fact that real business decisions rest on the tax laws. It would be irresponsible for the Congress to let the expiring tax provisions lapse for even a few months, when the public can have no idea what the provisions will look like in the final tax reform bill. It would be one thing if the public could be reasonably sure that the expiring provisions will be reenacted in their current form on the next major tax bill. That is sometimes the case with expiring provisions. But that is not the case now. Rather, the Ways and Means Committee bill makes significant changes in the operating rules for almost every expiring provision, which means that until the Congress finishes the tax reform bill, the public is wholly in the dark on what the rules will be.

Mr. President, there has been some discussion about the possibility of enacting a year-end extension bill that includes only those provisions extended in the Ways and Means tax reform bill, and with all the modification included in the Ways and Means bill with respect to those provisions. I for one would not like to see that happen. The Finance Committee and the entire Senate should have a chance to review carefully the extensive changes made by Ways and Means in such provision as the R&D credit and the energy credits before we approve them even for a short period. I think the Senate should have a chance to write its version of the tax reform bill on a clean slate. That is why the bill introduced by us today extends all the expiring provisions based on current law.

Senator DANFORTH and I acknowledge that a 6 month extension may not be long enough. But we think the Senate will probably be well along on its tax reform bill by July 1986, and we should have a better idea at that time of whether a further extension is necessary. If a further extension is necessary, I would certainly think the Congress should provide it at that time.

Mr. President, Senator LAUTENBERG has raised the possibility of enacting an extension of the Superfund taxes that expired at the end of September. The Superfund taxes are not included in this bill since the bill is intended to deal only with tax expenditure provisions and not also with taxing provisions. The two expiring taxing provisions—the Superfund taxes and the 16-cents-per-pack cigarette tax—raise unique and difficult issues that are beyond the scope of this simple bill. Having said this, however, I note that it may well be advisable to extend the Superfund taxes before we finish this session. The House has scheduled votes on the tax title of their Superfund bill for tomorrow. Depending on the outcome, we may want to suggest to them an extension of the recently expired taxing provisions.

Last, Mr. President, I would like to say a word about the revenue effect of this bill. We are told preliminarily by the Joint Tax Committee staff that the bill will have a revenue loss of about $2 billion over 3 years. But that estimate is somewhat misleading. Almost all of the expiring provisions are extended in the Ways and Means tax reform bill without a gap—that is, from January 1, 1986. So the revenue cost of extending these provisions will actually be a part of the overall revenue calculation of the tax reform bill. Of course, there is certainly a possibility that the effective date of the tax reform bill will be pushed back to some later date in 1986 or even to 1987. If that is a concern of my colleagues, I for one would certainly be willing to consider ways of raising offsetting revenues to eliminate the revenue loss of the bill.

I urge my colleagues to give this bill quick action.

Mr. BAUCUS. Mr. President, I am pleased to cosponsor this bill temporarily extending several expiring tax expenditure programs, including the Targeted Jobs Tax Credit, the R&D Tax Credit, and the Energy Tax Credit. Each of these programs will be carefully examined when we draft our tax reform bill. Some may survive unscathed, some may be modified, and some may be repealed.

In any case, fairness requires that we extend all of the programs until their ultimate fate is determined. I

congratulate Senators DANFORTH and BENTSEN for their leadership in assembling this extension bill, and I urge the full Senate to make every effort to enact it during the closing days of this session.

The bill also extends the section 7430 attorney's fees provisions. The Senate recently passed legislation that not only extends these provisions, but also improves their operation. I urge the Senate reconciliation conferees to insist that this provision be retained in the reconciliation conference report, so that today's mere extension is unnecessary.

I also would like to call another issue to the attention of my colleagues. As Senator BENTSEN notes in his statement, this bill does not extend the Comprehensive Environmental Response and Liability Act, or "Superfund." The original Superfund authorization expired October 1. The Senate passed legislation reauthorizing Superfund several months ago, and the House is making progress on its version of reauthorizing legislation, with final House action expected later this week. Even so, it will be extremely difficult for the conferees to work out a final version before we adjourn for the year.

Since the time that the original Superfund authorization expired, the Environmental Protection Agency has taken appropriate steps to preserve the fund to insure that the cleanup program continues and that adequate funding is available to provide for emergency responses.

But this approach has not been without cost. It has slowed progress at a time when we need to be accelerating the program. For example, the Environmental Protection Agency has instituted a hiring freeze, which is affecting the ability of both the Environmental Protection Agency and States to address the need to keep the Superfund Program moving forward.

I have become increasingly concerned that by waiting until Congress returns to reauthorize Superfund, we may seriously undermine the Environmental Protection Agency's ability to meet the goal of cleaning up the Nation's hazardous waste.

It is my goal to reauthorize a greatly expanded Superfund Program. In the interim, we need to insure that adequate funding continues to be available for the Environmental Protection Agency to meet the objectives of the program. Therefore, I hope that we consider Superfund extension legislation later this week.

Mr. D'AMATO. Mr. President, I rise today to reiterate my support for Federal tax reform. I believe it is absolutely necessary that we pursue the administrator's goal of a tax system that is both fair and simple. However, it is apparent that tax reform will not pass this year.

For this reason, Mr. President, I rise in cosponsorship of the 6 month tax extension bill championed by my distinguished colleagues from Missouri and Texas.

This legislation will extend several provisions of tax law currently due to expire on December 31, 1985. Many of these tax credits and deductions will be dealt with in the tax-reform package due to be considered by the Senate early next year. To allow these provisions to expire prior to full review of the tax-reform package, however, is not practical. Allowing these provisions to expire before fully discussing tax reform would only create confusion.

This legislation will extend the following provisions of law through June 30, 1986:

First, the prohibition on the application of regulations dealing with the allocation of research and development expenditures between United States and foreign source income;

Second, the research and development tax credit;

Third, the deduction for qualified architectural and transportation barrier removal expenses;

Fourth, the moratorium on the application of the 1976 amendments concerning net operating losses;

Fifth, the moratorium prohibiting the promulgation of any new regulations providing for the inclusion in income of the excess of the fair market value of qualified campus lodging the greater of (a) the operating costs paid in furnishing the lodging or (b) the rent received;

Sixth, the targeted job-tax credits;

Seventh, the award of attorneys fees in certain Tax Court cases;

Eighth, the exclusion from income of certain employer-provided educational assistance;

Ninth, the exclusion from income of the value of legal services received under a qualified group legal services plan;

Tenth, the exclusion from income of the value of qualified transportation provided by an employer between an employee's residence and place of employment;

Eleventh, the exclusion from income of qualified reinvestment dividends; and

Twelfth, the energy and renewable resource tax credits.

Extension of these provisions for 6-months will keep many businesses running smoothly, allowing them to plan for new tax conditions expected under tax reform.

This legislation is for an effective economy. I encourage my colleagues to give it their full and enthusiastic support.

By Mr. D'AMATO:

S. 1913. A bill to amend and extend laws relating to housing and community development; to the Committee on Banking, Housing, and Urban Affairs.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS ACT

● Mr. D'AMATO. Mr. President, I rise today to introduce a bill that addresses many of the housing concerns that have been raised during the 99th Congress. This legislation is offered in response to some of the many important housing and community development issues facing the Congress; it includes some items that are contained in H.R. 1, as well as some of the House and Senate housing reconciliation items that were included in H.R. 3500 and S. 1730.

This legislation in no way encompasses all current housing and community development program needs. Rather, it reflects my attempt to include only those items with strong bipartisan support. Hopefully, other major items that are not included in this legislation, the Housing and Community Development Amendments Act of 1985, can be addressed during the 2 sessions of the 99th Congress.

It is my hope that this bill might serve as a compromise position for housing legislation during this session of Congress. It has 5 titles with 48 sections. In adition to making program extensions which must be enacted this year, it contains a limited number of timely program amendments and new initiatives which would be beneficial if enacted this year. It includes a homeless shelter program, the Nehemiah Homeownership Program and a comprehensive grant program.

The major thrust of the Multifamily Housing Preservation Loan Program contained in H.R. 1 has been incorporated into the existing flexible subsidy program for troubled multifamily projects with no additional authorization. Substantive items also included in title I dealing with housing include: Making the section 8 voucher program freestanding, in addition to its support of section 17 rental rehabilitation units; a freeze in the PHA administrative fee structure for the Section 8 Existing Housing Program, as it existed on January 1, 1985; technical assistance for resident management entities in public housing projects; a public housing comprehensive grant program; extension of the troubled project program to older section 202 projects; and a provision to help HUD prevent overpayments to persons receiving housing subsidies.

Title II contains the two rural housing provisions in S. 1730 which are unchanged, except for the addition of a 1-year extension of the Section 515 Multifamily Program and the Section 523 Mutual and Self-Help Housing Grant and Loan Program.

Title III contains provisions for activities that support homeownership, often referred to as the Nehemiah

Program, without a request for funds above those provided in fiscal year 1986 appropriations; also included is a permanent entitlement transition of 5 years in lieu of the ad hoc grandfathering that has occurred in the past, revision of the section 108 loan guarantees as contained in S. 1730, and amendments to the Urban Development action Grant [UDAG] program. Authorization of UDAG is extended through 1987 in conformance with the funding level contained in S. 1730. The section on UDAG selection in this bill combines provisions in H.R. 1 and S. 1730 to provide major reforms contained in both bills.

Title IV includes greater flexibility in FHA mortgage limits in high cost areas, the removal of limitations on HUD setting interstate land sales registration fee; increases to 40 percent the FHA-ARM's allocation; extends the Home Mortgage Disclosure Act for 3 years; and restricts various fees and charges.

Title V contains a homeless initiative, essentially the same as previously introduced in the Senate.

Mr. President, I firmly believe that our Nation will benefit from the housing and community development provisions included in this bill. As I have stated on numerous previous occasions, it is noteworthy that for more than the past 50 years, the Federal Government has played a major role in advancing national housing policies in its partnership with the housing industry. We have provided Federal tax incentives to promote homeownership and the availability of affordable housing. Government assistance has been provided in establishing specialized financial institutions. Government chartered thrift institutions have channeled funds into housing and have given home buyers access to affordable mortgage credit. Programs also have been developed to revitalize and renovate our communities.

If our cities and neighborhoods are to grow and prosper, the Federal Government must continue to play an important role in housing. Therefore, I hope that my colleagues will join me in supporting this legislation which provides a necessary continuation and fine tuning of our housing and community development assistance programs.

Mr. President, we must not destroy the economic development that has been initiated in our communities. Instead, we must give each community an opportunity to continue to expand and develop. The efforts made by our cities and neighborhoods are worthy of our assistance.

Mr. President, I ask unanimous consent that the full text of my bill be printed in the RECORD.

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

S. 1913

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 "Housing and Community Development Amendments Act of 1985".

TITLE I—HOUSING ASSISTANCE

Sec. 101. Lower income housing authorization.
Sec. 102. Public housing amendments.
Sec. 103. Section 8 amendments.
Sec. 104. Housing for the elderly and handicapped.
Sec. 105. Congregate services.
Sec. 106. Section 235 homeownership program.
Sec. 107. Preventing fraud and abuse in HUD programs.
Sec. 108. Troubled multifamily housing projects.

TITLE II—RURAL HOUSING

Sec. 201. Rural housing authorizations.
Sec. 202. Management of insured loans.

TITLE III—COMMUNITY DEVELOPMENT

Sec. 301. Homeownership assistance.
Sec. 302. CDBG entitlement transition.
Sec. 303. Section 108 loan guarantees.
Sec. 304. Urban development action grants.
Sec. 305. Rehabilitation loans.
Sec. 306. Neighborhood Reinvestment Corporation.
Sec. 307. Neighborhood development demonstration program.
Sec. 308. Urban homesteading.

TITLE IV—MORTGAGE CREDIT/MISCELANEOUS PROVISIONS

Sec. 401. Extension of mortgage insurance programs.
Sec. 402. Amount to be insured under National Housing Act.
Sec. 403. Mortgage limits for multifamily projects in high cost areas..
Sec. 404. GNMA mortgage-backed securities limitations.
Sec. 405. Fees and charges.
Sec. 406. Home Mortgage Disclosure Act extension.
Sec. 407. Counseling.
Sec. 408. Research authorization.
Sec. 409. Interstate land sales registration fees.
Sec. 410. Flood insurance.

TITLE V—HOMELESS ASSISTANCE

Sec. 501. Definitions.

PART I—EMERGENCY FOOD AND SHELTER PROGRAM

Sec. 511. National Board.
Sec. 512. National Board transition.
Sec. 513. Distribution of programs funds.
Sec. 514. Agency responsibilities.
Sec. 515. Local boards.
Sec. 516. Local homeless assistance plans.
Sec. 517. Service providers.
Sec. 518. Use of funds.
Sec. 519. Limitation on certain costs.
Sec. 520. Program guidelines.
Sec. 521. Authorization.
Sec. 522. Surplus food distribution.

PART II—TRANSITION TO INDEPENDENCE DEMONSTRATION PROJECT

Sec. 531. Authority to make grants.
Sec. 532. Application for grants.
Sec. 533. Allocation of grants.
Sec. 534. Program requirements.
Sec. 535. Regulations.
Sec. 536. Reports to Congress.
Sec. 537. Authorization.

TITLE I—HOUSING ASSISTANCE

LOWER INCOME HOUSING AUTHORIZATIONS

SEC. 101. (a)(1) Section 5(c)(6) of the United States Housing Act of 1937 is amended by adding before the period at the end thereof: ", and on October 1, 1985".

(2) Section 5(c)(7)(B) of such Act is amended by—

(A) inserting "and fiscal year 1986" immediately after "1985";

(B) striking out "$150,000,000" in clause (vii) and inserting in lieu thereof "such sums as may be approved in an appropriation Act"; and

(C) striking out $150,000,000" in clause (viii) and inserting in lieu thereof "such sums as may be approved in an Appropriation Act".

(b) Section 9(c) of such Act is amended by striking out "and by" after "1983", and by inserting after "1984" the following ", and not to exceed such sums as may be approved in an appropriation Act on or after October 1, 1985."

PUBLIC HOUSING AMENDMENTS

SEC. 102. (a) Section 4 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(c)(1) on September 30, 1985, or the date of enactment of the Housing and Community Development Amendments Act of 1985, whichever is later, in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary pursuant to subsection (a) that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; the terms and conditions of any contract, or any amendment to a contract, for such loan with respect to any promise to repay such principal and interest shall be canceled. This cancellation shall not affect any other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan, the repayment of which was not to be made using annual contributions, or to any loan, all or part of the proceeds of which are due to a public housing agency from contractors or others.

"(2) On September 30, 1985, or on the date of enactment of the Housing and Community Development Amendments Act of 1985 into law, whichever is later, each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to subsection (b), together with any promise to repay the principal and unpaid interest which has accrued on each obligation, is forgiven; and any other term or condition specified by each such obligation is canceled.

"(3) Nothing in paragraph (1) or (2) shall be construed to terminate the obligations of a public housing agency with respect to the management or operation of, or tenant eligibility for, units financed with the notes or obligations canceled earlier than such obligations would have terminated without such cancellation.".

(b) Section 14 of the United States Housing Act of 1937 is amended by adding the following new subsections at the end thereof:

"(k) During fiscal year 1986, the Secretary may make available up to $1,500,000 from amounts otherwise available during such fiscal year for purposes of this section, for assistance to public housing agencies that obtain, by contract or otherwise, technical assistance for the development of resident management entities, including, but not lim-

ited to, formation of such entities, development of the management capability of newly formed or existing entities, and identification of project social support needs and securing such support."

"(C) Section 14 of the United States Housing Act of 1937 and its heading are amended to read as follows:

"COMPREHENSIVE GRANT PROGRAM

"SEC. 14. (a) The purpose of this section is to provide public housing agencies with a predictable source of funding and, through deregulation, with the flexibility to determine the most appropriate use of available funding, in order to assume the responsibility for improving the physical condition of existing public housing projects, upgrading their management and operation, and thereby contributing to their long-term viability and their continued availability to provide decent, safe, and sanitary living condition for lower income families.

"(b) The Secretary may make available, and contract to make available, financial assistance to public housing agencies in accordance with the provisions of this section with respect to public housing projects owned and operated by such agencies.

"(c) No financial assistance may be made available under this section unless the public housing agency has certified that it has completed and retained in its files a comprehensive plan, it has submitted a 1-year work plan, as required by subsection (d), and the work plan is approved, in accordance with subsection (f), except where necessary to correct conditions which constitute an immediate threat to the health and safety of tenants. However, agencies which the Secretary determines are not making reasonable progress toward meeting the performance standards under subsection (g)(2)(c) shall submit their comprehensive plan to the Secretary for review and approval. The comprehensive plan shall contain—

"(1) a comprehensive assessment of (A) the current physical condition of each project owned and operated by the agency, (B) the physical improvements necessary for each project to permit the project to be rehabilitated to a level equal to the minimum property standards established by the Secretary and in effect at the time of the preparation of the comprehensive plan, and (C) the replacement needs of equipment systems and structural elements which will be required to be met (assuming routine and timely maintenance is performed) during the 5-year period covered by the assessment;

"(2) a Comprehensive assessment of the improvements needed to upgrade the management and operation of the agency and of each project so that decent, safe, and sanitary living conditions will be provided, including at least an identification of needs related to—

"(A) the management, financial, and accounting control systems of the agency for the projects;

"(B) the adequacy and qualifications of personnel employed by the agency in the management and operation of the projects for each category of employment; and

"(C) the adequacy and efficacy of (i) tenant programs and services; (ii) the security of each project and its tenants; (iii) policies and procedures of the agency for the selection and eviction of tenants; and (iv) other policies and procedures of the agency relating to the projects, as listed in regulations issued by the Secretary;

"(3) an analysis, made on a project-by-project basis in accordance with standards prescribed by the Secretary, demonstrating that completion of the improvements and replacements identified under paragraphs (1) and (2) will reasonably assure the long-term viability of the project at a reasonable cost;

"(4) based on reasonable expectation of continued funding, a 5 year work plan to correct the deficiencies identified under paragraphs (1) and (2) to the extent possible. The 5 year work plan shall provide for making the improvements and replacements identified under paragraphs (1) and (2) which, pursuant to the analysis described in paragraph (3), the agency anticipates will reasonably assure the long-term viability of projects at a reasonable cost, and reasonably assure the efficient use of funds to achieve decent, safe, and sanitary living conditions for the most lower income families. The work plan shall include at least a schedule, in priority order, of the actions which are to be completed, over a period of not more than 5 years, and which are necessary (A) to make the improvements and replacements identified under paragraph (1) for each project expected to receive capital improvements or replacements; and (B) to upgrade the management and operation of the agency and its projects as identified under paragraph (2);

"(5) a certification from the chief executive officer of the unit of general local government (or Indian tribal official, if appropriate), that it has been consulted on the development of the comprehensive plan, has had an opportunity to comment, and will cooperate in the work process and provision of tenant programs and services.

"(6) a certification from the chief executive officer of the agency that it has complied with the public comment requirements in subsection (d);

"(7) a preliminary estimate of the total cost of the items identified in paragraphs (1) and (2), including a preliminary estimate of the costs that will be incurred during each year covered by the comprehensive plan; and

"(8) such other information as that Secretary may require.

"(d) To permit tenant, public, and local government examination and appraisal of the comprehensive plan, to further enhance agency flexibility and accountability, and to facilitate coordination of activities among various levels of government, the agency shall in a timely manner—

"(1) give the tenants, the public, and the local government information concerning the amount of funds expected to be available each year for comprehensive improvements;

"(2) publish the proposed comprehensive plan so tenants, the public, and the local government have an opportunity to examine it and to submit comments on it and on the performance of the agency;

"(3) hold at least one meeting for tenants in projects to be affected by each comprehensive plan to obtain views on the agency's comprehensive plan and performance;

"(4) hold at least one public hearing to obtain views on the agency's comprehensive plan and performance, and

"(5) take comments into consideration.

"(e)(1) To receive assistance with respect to any fiscal year, each public housing agency shall prepare and submit to the Secretary, a 1-year work plan indicating the particular activities to be conducted with financial assistance in the next agency fiscal year. The 1-year work plan shall be based on the comprehensive plan and reflect the actions necessary to assure the long-term viability of the projects at a reasonable cost and the schedule of priorities contained in the comprehensive plan.

"(2) The agency shall submit, with the 1-year work plan, certifications—

"(A) that it has completed the comprehensive plan;

"(B) that the 1-year work plan is consistent with the comprehensive plan;

"(C) that it has provided the tenants of the public housing and other interested parties the opportunity to review the work plan and comment on it, and that such comments have been taken into account in formulating the plan as submitted to the Secretary;

"(D) from the chief executive officer of the unit of general local government (or Indian tribal official, if appropriate), that the officer has been consulted on the development of the 1-year work plan, has had an opportunity to comment on it, and will cooperate in the work process and provision of tenant programs and services;

"(E) that it will spend the funds available under the 1-year work plan in accordance with subsection (h) in such a way as to accomplish the actions in the plan in a cost-effective manner; and

"(F) that it will implement the 1-year work plan in conformance with title VI of the Civil Rights Act of 1964, title VIII of the Civil Rights Act of 1968 and section 504 of the Rehabilitation Act of 1973.

"(f)(1) The Secretary shall approve a 1-year work plan submitted under subsection (d) unless—

"(A) the plan is incomplete;

"(B) on the basis of available significant facts and data pertaining to the physical and operational condition of the public housing agency's projects or the management and operations of the agency, the Secretary determines that the agency's identification of work is plainly inconsistent with or inappropriate to contributing to the long-term viability of the projects or maintaining the decent, safe and sanitary character of the projects; or

"(C) there is evidence available to the Secretary which tends to challenge in a substantial manner any certification contained in the plan.

"(2) The plan shall be considered to be approved unless the Secretary notifies the agency in writing within 75 days of submission that the Secretary has disapproved the plan as submitted, details the reasons for disapproval and the modifications required to make the plan approvable, and where appropriate, specifies why the proposed work is inconsistent with or inappropriate to contributing to the long-term viability of the projects or maintaining their decent, safe, and sanitary character.

"(g)(1) Each public housing agency receiving assistance under this section shall submit to the Secretary, on a date determined by the Secretary, a performance and evaluation report concerning the use of funds made available under this section. The report of the agency shall include its assessment of the relationship of such use, as well as the use of other funds, to the needs identified in the applicable 1-year work plan of the agency and to the purpose of this section. The agency shall certify that it made the report available for review and comment by tenants, the public, the local government, and other interested parties before its submission to the Secretary.

"(2) The Secretary shall, at least on an annual basis, make such reviews as may be necessary or appropriate to determine

whether each agency receiving assistance under this section—

"(A) has carried out its activities under this section in a timely manner and in accordance with its 1-year work plan;

"(B) has a continuing capacity to carry out its 1-year work plans in a timely manner;

"(C) has satisfied, or has made reasonable progress towards satisfying, such performance standards as shall be prescribed by the Secretary, which shall include at least that the agency shall—

"(i) maintain all occupied dwelling units in public housing projects eligible for assistance under this section at levels at least equal to the housing quality standards established by the Secretary under section 8(o)(6);

"(ii) maintain at least a 97 percent occupancy rate for all dwelling units in such projects; and

"(iii) maintain an operating reserve, as authorized under section 9(a), equal to at least 20 percent of the routine expenses in the operating budget of each year; and

"(D) has made reasonable progress in carrying out modernization projects approved under the provisions of section 14, as it existed immediately before the effective date of section 102(c) of the Housing and Community Development Amendments Act of 1985.

the Secretary shall make the determination under clause (D) of the preceding sentence before providing financial assistance under this section with respect to the first funding cycle after the effective date of section 102(c) of the Housing and Community Development Amendments Act of 1985.

"(3) Recipients of assistance under this section shall have an audit made in accordance with chapter 75 of title 31, United States Code. The Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States shall have access to all books, documents, papers, or other records that are pertinent to the activities carried out under this section in order to make audit examinations, excerpts, and transcripts.

"(4) The comprehensive plan, any amendments to the comprehensive plan, and the annual statement shall, once approved by the Secretary, be binding upon the Secretary and the public housing agency. The Secretary may order corrective action only if the public housing agency does not comply with paragraph (1) or (2) or if an audit under paragraph (3) reveals findings that the Secretary reasonably believes require such corrective action. The Secretary may withhold funds under this section only if the public housing agency fails to take such corrective action after notice and a reasonable opportunity to do so. In administering this section, the Secretary shall, to the greatest extent possible, respect the professional judgment of the administrators of the public housing agency.

"(h) A public housing agency may use financial assistance received under this section only—

"(1) to undertake activities described in its approved 1-year work plan;

"(2) to correct conditions that constitute an immediate threat to the health or safety of tenants, whether or not the need for correction is indicated in its comprehensive plan or 1-year work plan;

"(3) to prepare a comprehensive plan and 1-year work plan, including reasonable costs in connection with public comment, and annual performance and evaluation report, and an audit; and

"(4) to operate public housing projects consistent with the requirements that apply to amounts provided under section 9, except that not more than 20 percent of the amount received under this section for any agency fiscal year may be so used.

"(i)(1)(A) There are authorized to be appropriated under this section to provide assistance for the current needs for capital improvements of public housing agencies such sums as may be necessary for fiscal years 1987, 1988, 1989.

"(B) Of the amounts appropriated under subparagraph (A), 4 percent shall be reserved by the Secretary to provide assistance to correct conditions in public housing agencies that constitute an immediate threat to the health or safety of tenants.

"(2) There are authorized to be appropriated under this section to provide assistance for the future needs for capital improvements in replacement reserves for public housing agencies such sums as may be necessary for fiscal years 1987, 1988, 1989.

"(3) Any amount appropriated under this subsection shall remain available until expended."

(d)(1) The amendments made by subsection (c) shall not take effect until Congress, by law, established criteria for a formula or other allocation method to be used by the Secretary under this section in determining—

(A) for each public housing agency, the amounts necessary to address current needs for capital improvements.

(B) for each agency, the amounts necessary to address current needs for capital improvements;

(C) the relative needs of agencies of different sizes for the amounts described in paragraph (1) and (2).

The system for allocating assistance under section 14 of the United States National Housing Act of 1937 as it existed before the effective date of subsection (c) shall remain in effect until the effective date.

(2) Within one year of enactment of this Act, the Secretary shall submit to the Congress a report setting forth—

(A) the proposed proportion of total funds available under section 14 of the United States Housing Act of 1937 to be used for unanticipated or extradordinary needs;

(B) the proposed method of determining the division of funds between existing deficiencies and annual accrual of future needs, recognizing the magnitude of existing deficiencies;

(C) the proposed method of determining amounts provided to individual agencies under existing deficiencies and under annual accrual which may include a formula for specifying amounts for individual agencies or a method of regional, field office, or other allocations;

(D) the proposed procedures the Secretary of Housing and Urban Development will follow to assure that 0 the physical condition of public housing projects will be improved when an agency does not warrant the determination under section 14(g)(2)(D) of the United States Housing Act of 1937, as amended by subsection (c);

(E) an analysis of the objectively measurable data or other information used to make the determinations under paragraphs (A), (B), and (C) along with a comparison of the proposed allocations to recent previous funding;

(F) a proposed cash management system for agencies to accumulate annual accrual amounts in advance of actual repair expenses for meeting repair needs which occur before accrual grants; and

(G) the criteria for distinguishing between large and small agencies.

(3) Any amount that the Secretary has obligated to a public housing agency under section 14 of the United States Housing Act of 1937, as it existed immediately before the effective date of subsection (c), shall be used for the purposes for which such amount was provided, or for purposes consistent with a 1-year work plan submitted by the agency and approved by the Secretary under Section 14, as amended by subsection (a), as the agency considers appropriate.

(e) Section 9(a)(1) of the United States Housing Act of 1937 is amended by adding after the first sentence the following new sentence: "A public housing agency may also use any available amounts provided under this section in accordance with the purpose and requirements of section 14 of this Act.".

SECTION 8 AMENDMENTS

SEC. 103. (a) Section 8(b) of the United States Housing Act of 1937 is amended by adding at the end thereof the following new paragraphs:

"(2) Assistance payments may also be made under this subsection for a family residing in a project being rehabilitated under section 17 that is determined to be a lower income family at the time it initially receives assistance and whose rent after rehabilitation would exceed 30 percent of the monthly adjusted income of the family.

"(3) The method of calculation, the preliminary fee, and the percentage established for administrative fees paid to a public housing agency administering a contract under this subsection shall be the method of calculation, the preliminary fee, and the percentage established by the Secretary before January 1, 1985, and in effect on such date and shall be applicable to administrative fees payable with respect to the administrative activities of a public housing agency after December 31, 1984.".

(c) Section 8(o) of the United States Housing Act of 1937 is amended—

(1) in the first sentence of paragraph (1), by striking out "In" and all that follows through ", the" and inserting in lieu thereof "The";

(2) by striking out paragraph (4);

(3) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively; and

(4) in paragraph (5), as so redesignated by this subsection, by striking out "an initial" and inserting in lieu thereof "a".

(d) The first sentence of section (8)(o)(3) of the United States Housing Act of 1937 is amended—

(1) by striking out "or" before "(C)"; and

(2) by inserting before the period at the end thereof the following: ", or (D) a family residing in a project being rehabilitated under section 17 that is determined to be a lower income family at the time it initially receives assistance and whose rent after rehabilitation would exceed 30 percent of the monthly adjusted income of the family".

HOUSING FOR THE ELDERLY AND HANDICAPPED

SEC. 104. (a)(1) The first sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 as amended—

(A) by striking out "and" the first place it appears; and

(B) by inserting after "1984," the following: "and to such sums as may be approved

in an appropriation Act on October 1, 1985,".

(2) Section 202(a)(4)(C) of the Housing Act of 1959 is amended by striking out everything after "Acts" the first place it appears and before the period at the end thereof.

(c)(1) Section 202(a) of the Housing Act of 1959 is amended by adding at the end thereof the following new paragraph:

"(8) To the maximum extent practicable, the Secretary shall encourage each corporation to provided for appropriate community participation in the development of the housing project assisted under this section.".

(2) Section 202 (d)(2)(B) of the Housing Act of 1959 is amended to read as follows:

"(B) that owns and is responsible for the operation of the housing project assisted under this section; and".

(d) Section 202(k) of the Housing Act of 1959 is amended by adding at the end thereof the following new paragraph:

"(3) Not later than 90 days after the date of enactment of this paragraph, the Secretary shall establish policies and procedures specifically for applications for financing group homes and independent living complexes to house nonelderly handicapped persons and families. Such policies and procedures shall account for the smaller scale of construction of such housing, the particular physical requirements of handicapped individuals living in such projects, and the need for flexibility in applying fair market rentals determined on the basis of apartment rental experience to smaller group homes and independent living complexes. The Secretary shall not require more than single occupancy in group home units that qualify as efficiences and such units shall be subject to the fair market rentals for semi-detached/row structures.".

(e) Section 223 (a)(2) of the Housing and Urban-Rural Recovery Act of 1983 is repealed.

CONGREGATE SERVICES

SEC. 105. Section 411(a) of the Congregate Housing Services Act of 1978 is amended by striking out "fiscal year 1985" in paragraph (6) and inserting in lieu thereof "fiscal years 1985 and 1986".

SECTION 235 HOMEOWNERSHIP PROGRAM

SEC. 106. (a) Section 235(h)(1) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

(b) Section 235(m) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "September 30, 1986".

(c) Section 235(q)(1) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "September 30, 1986".

PREVENTING FRAUD AND ABUSE IN HUD PROGRAMS

SEC. 107. (a) As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving loans, grants, interest or rental assistance of any kind, or mortgage or loan insurance, and to ensure that the level of benefits provided under such programs is proper, the Secretary may require that an applicant or participant (including members of the household of an applicant or participant) disclose his or her social security account number or employer identification number to the Secretary.

(b) As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban development involving initial and periodic review of the income of the applicant or participant, and to ensure that the level of benefits provided under such programs is proper, the Secretary may require that an applicant or participant (including members of the household of an applicant or participant) sign a consent form approved by the Secretary authorizing (1) the Secretary, or the public housing agency or owner responsible for determining eligibility or level of benefits, to verify the information furnished by the applicant or participant, and (2) any Federal, State, or local agency or private person or entity to release information related to the determination of eligibility and benefit level. The information may include, but is not limited to, data concerning wages (not including return information as defined in section 6103(b)(2) of the Internal Revenue Code of 1954), unemployment compensation, benefits made available under the Social Security Act, and veterans benefits under title 38, United States Code. Any individually identifiable information received by the Secretary under this section shall be subject to the requirements of section 552a of title 5, United States Code. An applicant or participant shall have the right to obtain, examine, and correct any information that the Secretary, public housing agency, or owner responsible for determining eligibility or level of benefits has received under this section before the Secretary, public housing agency, or owner takes any action on the basis of such information, unless a criminal investigation is pending. An applicant or participant shall also have the right to file a statement disputing or augmenting any such information and to have such statement included in any records of such information.

(c) For purposes of this section:

(1) The terms "applicant" and "participant" shall have such meanings as the Secretary by regulation shall prescribe. Such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials or officers of lending institutions.

(2) The term "public housing agency" means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

(3) the term "Secretary" means the Secretary of Housing and Urban Development.

TROUBLED MULTIFAMILY HOUSING PROJECTS

SEC. 108. (a) Section 201 (a) of the Housing and Community Development Amendments of 1978 is amended by inserting "the Housing Act of 1959," after "1937,".

(b) Section 201(c)(1)(A) of the Housing and Community Development Amendments of 1978 is amended by inserting before the semicolon at the end thereof the following: ", or received a loan under section 202 of the Housing act of 1959 before October 1, 1970".

(c) Section 201(d)(1) of the Housing and Community Development Amendments of 1978 is amended by striking out everything that follows "the owner has agreed" and inserting in lieu thereof the following: "to apply for sufficient assistance under this section, section 8 of the United States Housing Act of 1937, or any other appropriate housing assistance program to permit the owner to maintain both the financial soundness and the low- and moderate-income character of the project and to maintain the low- and moderate-income character of the project for a period at least equal to the lesser of ten years or the remaining term of the project mortgage or such longer period up to the remaining period of the project mortgage during which sufficient assistance is provided to the project to maintain the low- and moderate-income character of the project;".

(d) Section 201(f)(1) of the Housing and Community Development Amendments of 1978 is amended—

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

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

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

"(E) an amount determined by the Secretary to be necessary to finance a major repair or replacement of a capital item in a project.".

(e) Section 236(f)(3) of the National Housing Act is amended by striking out "1985" and inserting in lieu thereof "1986".

TITLE II—RURAL HOUSING

RURAL HOUSING AUTHORIZATIONS

SEC. 201. (a) Section 513 of the Housing Act of 1949 is amended to read as follows:

"PROGRAM LEVELS AND AUTHORIZATIONS

"SEC. 513. (a)(1) The Secretary may insure and guarantee loans under this part during fiscal year 1986 in an aggregate amount not to exceed $2,027,180,000, of which—

"(A) $1,370,580,000 shall be for loans under section 502; and

"(B) $630,000,000 shall be for loans under section 515.

"(2) Notwithstanding any other provision of law, insured and guaranteed loan authority in this title for any fiscal year beginning after September 30, 1984, shall not be transferred or used for any purpose not specified in this part.

"(b) There are authorized to be appropriated for fiscal year 1986—

"(1) $13,000,000 for grants pursuant to section 504;

"(2) $1,000,000 for the purposes of section 509(c);

"(3) such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to (A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503, and (B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary;

"(4) $12,000,000 for financial assistance pursuant to section 516; and

"(5) $8,000,000 for the purposes of section 523.

"(c) The Secretary may enter into rental assistance contracts aggregating $240,200,000 under section 521(a)(2)(A) during fiscal year 1986.".

(b) Section 515(b)(4) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "September 30, 1986".

(c) Section 523(f) of the Housing Act of 1949 is amended by striking out "December 15, 1985" and inserting in lieu thereof "September 30, 1986".

(d) Section 523(g) of the Housing Act of 1949 is amended—

(A) by striking out "$5,000,000" and inserting in lieu thereof "$700,000; and

(B) by striking out "fiscal year 1985" and inserting in lieu thereof "fiscal year 1986".

MANAGEMENT OF INSURED LOANS

SEC. 202. (a) Section 517(d) of the Housing Act of 1949 is amended:

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

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

"(2) The Secretary shall, to the extent practicable, sell loans insured or guaranteed under this part to the public. Each loan made by the Secretary or other lender under this part is insured in accordance with this subsection shall, when offered for sale to the public, be accompanied by an agreement by the Secretary to pay to the holder of such loan (through an agreement to purchase such loan or through such other means as the Secretary determines to be appropriate) the difference between the rate of interest paid by the borrower of such loan and the market rate of interest (and determined by the Secretary) on obligations having comparable periods to maturity on the date of such sale.

"(3) Each loan made by the Secretary or other lender under this part that is insured in accordance with this subsection shall, when offered for sale to the public, be accompanied by agreements for the benefit of the borrower under the loan that provide that—

"(A) the purchaser or any assignee of the loan shall not diminish any substantive or procedural right of the borrower arising under this part;

"(B) upon any substantial default of the borrower, but prior to foreclosure, the loan shall be assigned to the Secretary for the purpose of avoiding foreclosure; and

"(C) following any assignment under subparagraph (B) and before commencing any action to foreclose or otherwise dispossess the borrower, the Secretary shall afford the borrower all substantive and procedural rights arising under this part, including consideration for interest subsidy, moratorium, reamortization, refinancing, and repeal of any adverse decision to an impartial officer.

"(4) From the proceeds of loan sales under paragraph (2), the Secretary shall set aside as a reserve against future losses not less than 5 per centum of the outstanding face amount of the loans held by the public at any time.".

(b) Section 517(j) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

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

"(6) to make payments and take other actions in accordance with agreements entered into under paragraphs (2) and (3) of subsection (d).".

(c) Section 517 of the Housing Act of 1949 is amended by striking out subsection (n).

TITLE III—COMMUNITY DEVELOPMENT

HOMEOWNERSHIP ASSISTANCE

SEC. 301. (a) Section 105(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" at the end of paragraph (17);

(2) by striking out the period at the end of paragraph (18) and inserting in lieu thereof a semicolon; and

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

"(19) provision of assistance to facilitate new construction or substantial reconstruction in instances in which persons of low- and moderate-income own and occupy a home that the grantee determines is not suitable for rehabilitation.".

(b)(1) It is the purpose of this subsection (A) to encourage homeownership by families in the United States who are not otherwise above to afford homeownership; (B) to undertake a concentrated effort to rebuild the depressed areas of the cities of the United States and to create sound and attractive neighborhoods; and (C) to increase the employment of neighborhood residents.

(2) For the purposes of this subsection:

(A) The term "Fund" means the Nehemiah Housing Opportunity Fund established in paragraph (9)(A).

(B) The term "home" means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(C) The term "lower income families" has the meaning given in such term in section 3(b)(2) of the United States Housing Act of 1937.

(D) The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget.

(E) The term "nonprofit organization" means a private corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(F) The term "Secretary" means the Secretary of Housing and Urban Development.

(G) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(H) The term "substantial rehabilitation" means—

(i) rehabilitation involving costs in excess of 60 percent of the maximum sale price of a home assisted under this title in the market area in which it is located; or

(ii) the rehabilitation of a vacant, uninhabitable structure.

(I) The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(3) The Secretary may provide assistance to nonprofit organizations to carry out Nehemiah housing opportunity programs in accordance with the provisions of this subsection. Such assistance shall be made in the form of grants. Applications for assistance under this subsection shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

(4)(A) Any nonprofit organization receiving assistance under this subsection shall use such assistance to provide loans to families purchasing homes constructed or substantially rehabilitated in accordance with a Nehemiah housing opportunity program approved under this subsection.

(B) Each loan made to a family under this subsection shall—

(i) be secured by a second mortgage held by the Secretary on the property involved;

(ii) be in an amount not exceeding $15,000;

(iii) bear no interest; and

(iv) be repayable to the Secretary upon the sale or other transfer of such property.

(5)(A) Assistance provided under this subsection may be used only in connection with a Nehemiah housing opportunity program of construction or substantial rehabilitation of homes.

(B) Each Family purchasing a home under this subsection shall—

(i) have a family income on the date of such purchase that is not more than whichever of the following is higher:

(I) 115 percent of the median income for a family of 4 persons in the metropolitan statistical area involved; or

(II) the national median income for a family of 4 persons; and

(ii) and shall not have owned a home during the 3-year period preceding such purchase.

(C)(i) Each family purchasing a home under this subsection shall make a downpayment of not less than 10 percent of the sale price of such home, or of such greater amount determined by the nonprofit organization involved to be appropriate.

(ii) Any downpayment made shall accrue interest from the date on which such downpayment is made through the date of settlement, at a rate not less than the passbook rate. Such interest shall be paid by the nonprofit organization involved to the family purchasing the home for which such downpayment was made.

(D) No family purchasing a home under this subsection may lease such home.

(6)(A) No proposed Nehemiah housing opportunity program may be approved by the Secretary under this subsection unless the nonprofit organization involved demonstrates to the satisfaction of the Secretary that—

(i) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(ii) it has the approval of each unit of general local government in which such program is to be located.

(B) Each nonprofit organization applying for assistance under this subsection shall submit to the Secretary an estimated schedule for completion of its proposed Nehemiah housing opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

(C) Minimum participation. No nonprofit organization receiving assistance under this subsection may commence any construction or substantial rehabilitation (except with respect to homes to be constructed or substantially rehabilitated for the purpose of display) until not less than 25 percent of the homes to be contructed or substantially rehabilitated are constructed for sale to purchasers who intend to live in such homes and the required downpayments are made.

(D) The Secretary may not provide any assistance under this subsection to any nonprofit organization unless such organization demonstrates the financial feasibility of its proposed Nehemiah housing opportunity program, including the availability of non-Federal public and private funds.

(E) A Nehemiah housing opportunity program may be approved under this subsection only if it provides that—

(i) the number of homes to be constructed or substantially rehabilitated under such program will not be less than whichever of the following is less:

(I) the greater of (a) 50 homes; or (b) 0.25 percent of the number of existing dwelling units in the unit of general local government that provides the most assistance to such programs; or

(II) 250 homes;

(ii) each home constructed or substantially rehabilitated under such program will comply with—

(I)(a) applicable local building code standards or

(b) in any case in which there is not an applicable local building code, a nationally recognized model building code mutually agreed upon by the sponsoring nonprofit organization and the Secretary; and

(II) the energy performance requirements established under Section 526 of the National Housing Act;

(iii) all homes constructed or substantially rehabilitated under such program will be located in census tracts, or indentifiable neighborhoods within census tracts, in which the median family income is not more than 80 percent of the median family income of the area in which such program is to be located, as such median family income and area are determined for purposes of assistance under section 8 of the United States Housing Act of 1937;

(iv) all homes constructed or substantially rehabilitated under such program will be concentrated in a single neighborhood and located on contiguous parcels of land, except that if the unit of general local government in which the project is located certifies that such land cannot be made available for a program of the size required by subparagraph (E)(1), homes may be constructed in a single identifiable neighborhood if the program provides for construction or substantial rehabilitation of homes on not less than 20 percent of the lots in such neighborhoods; and

(v) sales contracts entered into under such program will contain provisions requiring repayment of any loan made under this subsection upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such homes without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

(7)(A) In selecting Nehemiah housing opportunity programs for assistance under this subsection from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(i) non-Federal public or private entities will contribute land necessary to make each program feasible;

(ii) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of homes constructed or substantially rehabilitated under each program;

(iii) each program will produce the greatest number of units for the least amount of assistance provided under this subsection, taking into consideration the cost differences among different market areas;

(iv) each program is located in a neighborhood of severe physical and economic blight (and, in determining the degree of physical blight, the Secretary shall consider the condition (but not age) of the housing, other buildings, and infrastructure, in the neighborhood of the proposed program);

(v) each program uses construction methods that will reduce the cost per square foot below the average construction cost in the market area involved; and

(vi) each program provides for the involvement of local residents in the planning, and construction or substantial rehabilitation, of homes.

(B) To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in clause (i) or (ii) of subparagraph (a), the Secretary shall not consider such form of contribution in evaluating such program.

(8)(A) Following the selection of any Nehemiah housing opportunity program for assistance under this subsection, the Secretary shall reserve sufficient amounts in the Nehemiah Housing Opportunity Fund for such assistance.

(B) Distribution of Assistance. Following the sale of any home constructed or substantially rehabilitated under a Nehemiah housing opportunity program selected for assistance under this subsection, the Secretary shall provide to the sponsoring organization an amount equal to the amount of the loan made to the family purchasing such home. Such amount shall be provided not more than 30 days after the sale of such home.

(iii) The assistance provided to any nonprofit organization under this subsection may not exceed $15,000 per home.

(9)(A) There hereby is established in the Treasury of the United States a revolving fund, to be known as the Nehemiah Housing Opportunity Fund. The Fund shall be available to the Secretary, to the extent approved in appropriation Acts, for purposes of providing assistance under paragraph (3).

(B) The Fund shall consist of—

(i) any amount appropriated under paragraph (12);

(ii) any amount received by the Secretary under paragraph (4)(B)(iv); and

(iii) any amount received by the Secretary under subparagraph (C).

(C) Any amount in the Fund determined by the Secretary to be in excess of the amount currently required to carry out the provision of this subsection shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

(10) The Secretary shall annually prepare and submit to the Congress a comprehensive report setting forth the activities carried out under this subsection. Such report shall include—

(A) an analysis of the characteristics of the families assisted under this subsection during the preceding year, including family size, number of children, family income, sources of family income, race, age and sex;

(B) an analysis of the market value of homes purchased under this subsection during the preceding year;

(C) an analysis of the non-Federal public and private financial or other contributions made during the preceding year to reduce the cost of homes constructed or substantially rehabilitated under each program;

(D) an analysis of the sale prices of homes under this subsection during the preceding year;

(E) an analysis of the amounts of the grants made to programs under this subsection during the preceding year; and

(F) any recommendations of the Secretary for modifications in the program established by this subsection in order to ensure the effective implementation of such program.

(11) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection. Any such regulations shall be issued in accordance with section 553 of title 5, United States Code, notwithstanding the provisions of subsection (a)(2) of such section.

(12) There are authorized to be appropriated such sums as may be provided by a fiscal year 1986 appropriation Act. Any amount appropriated under this paragraph shall be deposited in the Nehemiah Housing Opportunity Fund, and shall remain available until expended.

CDBG ENTITLEMENT TRANSITION

SEC. 302. Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new sentence: "Any city classified as a metropolitan city pursuant to the first or second sentence of this paragraph that no longer qualifies as a metropolitan city under such first or second sentence in a fiscal year beginning after fiscal year 1985, shall retain its classification as a metropolitan city for that fiscal year and the succeeding four fiscal years.".

SECTION 108 LOAN GUARANTEES

SEC. 303. (a) Section 108 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(1) Notes or other obligations guaranteed under this section may not be purchased by the Federal Financing Bank.".

(b) The amendment made by paragraph (1) shall take effect on July 1, 1986.

(c) The Secretary of Housing and Urban Development shall take such administrative actions as are necessary to provide by the effective date of subsection (a) private sector financing of loans guaranteed under section 108 of the Housing and Community Development Act of 1974.

URBAN DEVELOPMENT ACTION GRANTS

SEC. 304. (a) Section 119(a) of the Housing and Community Development Act of 1974 is amended by striking out the last sentence and inserting in lieu thereof the following: "There are authorized to be appropriated to carry out the provisions of this section not to exceed $440,000,000 for each of the fiscal years 1984 and 1985, not to exceed $352,000,000 for fiscal year 1986, and not to exceed $366,000,000 for fiscal year 1987. Any amount appropriated under the preceding sentence shall remain available until expended.".

(b)(1) Section 119(d) of the Housing and Community Development Act of 1974 is amended—

(A) by indenting clauses (A) and (B) of paragraph (1);

(B) by striking out "as the primary criterion," in clause (A);

(C) by striking out clause (C) of paragraph (1) and inserting in lieu thereof the following:

"(C) at least the following other criteria:

"(i) the extent to which the grant will stimulate economic recovery by leveraging private investment;

"(ii) the number of permanent jobs to be created and their relation to the amount of grant funds requested;

"(iii) the proportion of permanent jobs accessible to lower income persons and minorities, including persons who are unemployed;

"(iv) the impact of the proposed activities on the fiscal base of the city or urban county and its relation to the amount of grant funds requested;

"(v) the extent to which State or local government funding or special economic incentives have been committed;

"(vi) the extent to which the project is located in the portion of the applicant city or urban county with the highest comparative degree of economic distress and the projects

will directly improve the quality of housing or employment opportunities for low and moderate income residents of that portion;

"(vii) the extent to which the project will produce goods or services the majority of which can be expected to be exported from the applicant's economy; and

"(viii) to the extent the Secretary deems appropriate, the extent to which other Federal assistance is to be made available shall be considered in applying the criteria referred to in clauses (i), (ii), (iv) of this subparagraph;

"(D) additional consideration for the extent to which the projects, in the determination of the Secretary, would—

"(i) retain jobs which would be lost without the provision of a grant under this section; and

"(ii) relieve the applicant's most pressing employment or residential needs by—

"(I) reemploying workers in a skill that has recently suffered a sharp increase in unemployment locally,

"(II) retaining recently unemployed residents in new skills, or

"(III) providing training to increase the local pool of skilled labor; and

"(E) additional consideration for projects with the following characteristics:

"(i) projects to be located within a city or urban county to which no grant under this section was made during the preceding twelve-month period; and

"(ii) twice the amount of the additional consideration provided under clause (i) in the case of a grant for projects to be located in cities or urban counties to which no grant under this section was made during the preceding twenty-four month period."; and

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

"(3) The Secretary may not award a grant under paragraph (1) unless he determines that the project would have a substantial impact on physical and economic development of the city or urban county, that the proposed activities are likely to be accomplished in a timely fashion within the grant amount available, and that the city or urban county has demonstrated performance in housing and community development programs.

"(4) The Secretary shall award points to each application as follows:

"(A) not more than 35 points on the basis of the factors referred to in subparagraph (A) of paragraph (1);

"(B) not more than 35 points on the basis of the factors referred to in subparagraph (B) of paragraph (1);

"(C) not more than 30 points on the basis of the factors referred to in subparagraph (C) of paragraph (1), of which not more than 3 points in the aggregate shall be awarded for the factors referred to in clauses (vi) and (vii) of subparagraph (C);

"(D) not more than 3 additional points as the Secretary deems appropriate for projects described in subparagraph (D) of paragraph (1); and

"(E) not more than 2 additional points as the Secretary deems appropriate for projects described in subparagraph (E) of paragraph (1).

"(5) The Secretary shall distribute grant funds under this section so that to the extent practicable during each funding cycle—

"(A) two-thirds of the funds are first made available utilizing all of the criteria set forth in paragraph (1); and

"(B) one-third of the funds is then made available solely on the basis of the factors referred to in subparagraphs (C), (D), and (E) of paragraph (1).

"(6) In determining the score to be awarded each of the criteria under subparagraph (C), (D), and (E) for applications for grants for housing activities, the Secretary shall compare such applications only with other applications for grants for housing activities. For purposes of this subparagraph, an application shall be considered an application for a grant for housing activities if such application proposes that—

"(A) not less than 51 percent of all funds available for the project shall be used for dwelling units and related facilities; and

"(B) not less than 20 percent of all funds used for dwelling units and related facilities shall be used for dwelling units to be occupied by persons of low and moderate income.

"(7)(A) For each fiscal year, the Secretary shall hold—

"(i) 3 competitions for grants under paragraph (1) for cities not described in the first sentence of subsection (i) (relating to small cities) and urban counties; and

"(ii) 3 competitions for cities described in the first sentence of subsection (i) (relating to small cities).

"(B) Each competition for grants described in any clause of subparagraph (A) shall be for an amount equal to the sum of—

"(i) approximately ⅓ of the funds available for such grants for the fiscal year;

"(ii) any funds available for such grants in any previous competition that are not awarded; and

"(iii) any funds available for such grants in any previous competition that are recaptured.".

(2) Nothwithstanding any provision of section 119 of the Housing and Community Development Act of 1974, for purposes of funding decisions made before February 1, 1986, the Secretary of Housing and Urban Development shall give additional consideration, equal to the points otherwise awarded under clause (C) of paragraph (1) of section 119(d) of the Housing and Community Development Act of 1974, as amended by paragraph (1) of this subsection, in the case of a project to be located in a city or urban county to which no grant under section 119 of such Act was made during the preceding twenty-four month period if such project has met the criteria for preliminary approval in the three consecutive funding cycles immediately preceding the date of enactment of this paragraph.

(3) The provisions of paragraphs (1)(E), (4)(E), and (5) of section 119(d) of the Housing and Community Development Act of 1974, as amended by paragraph (1) of this subsection, and the provisions of paragraph (2) of this subsection shall take effect on the date of enactment of this Act, except that in applying section 119(d)(5)(b) of such Act prior to the issuance of implementing regulations under the second sentence of this paragraph, the Secretary shall exclude those criteria for which regulations are required to be issued. The remainder of the amendments made by paragraph (1) shall take effect upon the issuance of implementing regulations, which the Secretary shall issue not later than four months after the date of enactment of this Act.

(4)(A) Not later than March 15, 1986, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a comprehensive report evaluating the eligibility standards and selection criteria applicable under section 119 of the Housing and Community Development Act of 1974. Such report shall evaluate in detail the standards and criteria specified in such section that measure the level or comparative degree of economic distress of cities and urban counties. Such report shall also evaluate in detail the extent to which the economic and social data utilized by the Secretary in awarding grants under such section is current and accurate, and shall compare the data used by the Secretary with other available data. The Secretary shall make recommendations to the Congress on whether or not data should be collected by the Federal Government in order to fairly and accurately distribute grants under such section based on the level or comparative degree of economic distress. The Secretary shall also make recommendations on whether or not existing data should be collected more frequently in order to ensure that timely data is used to evaluate grant applications under such section. Such report shall also describe in detail the standard and criteria utilized by the Secretary to evaluate project quality under paragraphs (C), (D), (E) of section 119(d)(1) of such Act.

(B) Not later than the expiration of the 3-month period following the date of the final competition for grants for fiscal year 1986 under section 119 of the Housing and Community Development Act of 1974, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a comprehensive report describing the effect of the amendments made by this section on—

(i) the targeting of grant funds to cities and urban counties having the highest level or degrees of economic distress;

(ii) the distribution of grant funds among regions of the United States;

(iii) the number and types of projects receiving grants; and

(iv) the per capita funding levels for each city, urban county, or identifiable community described in section 119(p) of such Act, receiving assistance under that section.

(c) Section 119(f) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following: "In any case where the project proposes the repayment to the applicant of the grant funds, such funds shall be made available by the applicant for economic development activities which are or would be eligible activities under this section or section 104. The applicant shall annually provide the Secretary with a statement of the projected receipt and use of repaid grant funds during the next year together with a report acceptable to the Secretary on the use of such funds during the most recent preceding full fiscal year of the applicant.".

(d) Section 119(n)(1) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following: "Such term also includes the counties of Kauai, Maui, and Hawaii in the State of Hawaii, except that in the case of such counties grants shall be made only to assist projects that, in the determination of the Secretary, are located in and will improve the employment base of urban areas within such counties.".

(e) Section 119(r) of the Housing and Community Development Act of 1974 is amended by striking out "among programs" and inserting in lieu thereof "against projects"; and is further amended by striking out "In" and inserting in lieu thereof "Except as provided in subsection (D) (6), in".

(f) On or before July 1, 1986 the Secretary of Housing and Urban Development shall report to the Congress any recommendations as to legislation that may be needed or desirable in the implementation of Section 119(h) of the Housing and Community Development Act of 1974.

REHABILITATION LOANS

SEC. 305. Section 312(h) of the Housing Act of 1964 is amended by striking out "1985" each place it appears and inserting in lieu thereof "1986".

NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 306. Section 608(a) of the Neighborhood Reinvestment Corporation Act is amended by striking out "fiscal year 1985" and inserting in lieu thereof "fiscal year 1985 and 1986."

NEIGHBORHOOD DEVELOPMENT DEMONSTRATION PROGRAM

SEC. 307. Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking out "1984 and 1985" and inserting in lieu thereof "1984, 1985, and 1986".

URBAN HOMESTEADING

SEC. 308. Section 810(k) of the Housing and Community Development Act of 1974 is amended by striking out "fiscal year 1985" and inserting in lieu thereof "fiscal years 1985 and 1986".

TITLE IV—MORTGAGE CREDIT AND MISCELLANEOUS PROVISIONS

MORTGAGE INSURANCE PROGRAMS

SEC. 401(a) Section 2(a) of the National Housing Act is amended by striking out "December 16, 1985" in the first sentence and inserting in lieu thereof "October 1, 1986".

(b) Section 217 of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "September 30, 1986."

(c) Section 221(f) of the National Housing Act is amended by striking out "December 15, 1985" in the fifth sentence and inserting in lieu thereof "September 30, 1986."

(d)(1) Section 244(d) of the National Housing Act is amended by striking out "December 15, 1985" and inserting in lieu thereof "September 30, 1986".

(2) Section 244(h) of the National Housing Act is amended by striking out "December 16, 1985" in the last sentence and inserting in lieu thereof "October 1, 1986".

(e) Section 245(a) of the National Housing is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

(f)(1) Section 80(f) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

(2) Section 810(k) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

(g) Section 1002(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

(h) Section 1101(a) of the National Housing Act is amended by striking out "December 15, 1985" in the last sentence and inserting in lieu thereof "September 30, 1986".

AMOUNT TO BE INSURED UNDER NATIONAL HOUSING ACT

SEC. 402. (a) Section 531 of the National Housing Act is amended by striking out "and 1985" and inserting in lieu thereof the following: ", 1985, and 1986".

(b) Section 251(c) of the National Housing Act is amended by striking out ", Section 245(c) and Section 252" and is further amended by striking out "10 percent" and inserting "40 percent."

(c) Section 252(g) of the National Housing Act is amended by striking out "this section, Section 245(c), and Section 251" and inserting "this section and Section 245(c)."

(d) Section 245 (c)(2) of the National Housing Act is amended by striking out "subsection, section 251," and inserting "subsection" in the last sentence.

MORTGAGE LIMITS FOR MULTIFAMILY PROJECTS IN HIGH COST AREAS

SEC. 403. Section 207(c)((3), the second proviso of section 213(b)(2), the first proviso of section 220(d)(3)(B)(iii), section 221(d)(3)(ii), section 221(d)(4)(ii), section 231(c)(2) and section 234(e)(3) of the National Housing Act are each amended by striking out "not to exceed 75 per centum" and all that follows through "involved) in such an area" and inserting in lieu thereof the following: "not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 305 of this Act (as such section existed immediately before November 30, 1983) is involved". Section 221(d)(4)(ii) of the National Housing Act of 1934 is amended by striking out "$19,406"; "$22,028"; "$26,625"; "$33,420"; "$37,870"; "$20,962"; "$24,030"; "$29,220"; "$37,800"; and "$41,494" and inserting in lieu thereof, "$25,228"; "$28,636"; "$34,613"; "$43,446"; "$49,231"; "$27,251"; "$31,239"; "$37,986"; "$49,140" and "$53,942", respectively.

GNMA MORTGAGE-BACKED SECURITIES LIMITATIONS

SEC. 404. Section 306(g)(2) of the Federal National Mortgage Association Charter Act is amended by striking out "and 1985" and inserting in lieu thereof ", 1985, and 1986".

FEES AND CHARGES

SEC. 405. (a) (1) No fee, premium or other charge shall be assessed or collected by the United States (including any executive department, agency, or independent establishment thereof) on or with regard to loans, guarantees or insurance provided by the Secretary of Housing and Urban Development unless such fee, premium or other charge is established at no greater than an amount, if any, that reasonably could be expected to compensate the United States with respect to such activities for such actual administrative expenses and anticipated losses on actual experience.

(2) Any fee, premium or other charge in effect as of November 1, 1985, shall be deemed to be in compliance with paragraph (1) of this subsection.

(b) No risk premium or loan fee may be assessed or collected by the Secretary of Housing and Urban Development or any other Federal agency directly or indirectly from the borrower with regard to a loan made by the Secretary under section 312 of the Housing Act of 1964.

(c) No fee, premium or other charge shall be assessed or collected by the United States (including any executive department, agency, or independent establishment thereof) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee or redemption of any mortgage, asset, obligation, trust certificate of beneficial interest or other security by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or a Federal Home Loan Bank; Provided, however, that nothing herein shall prohibit incidental imposition of any reasonable and appropriate fee or charge pursuant to section 304(c) or 309(g) of the Federal National Mortgage Association Charter Act, section 303(c) of the Federal Home Loan Mortgage Corporation Act, or section 11(i) of the Federal Home Loan Bank Act.

(3) (A) No fee or charge in excess of 6 basis points (other than fees or charges for the issuance of commitments or miscellaneous administrative fees that do not exceed the level set for such fees by the Government National Mortgage Association as of September 1, 1985) may be assessed or collected by the United States (including any executive department, agency or independent establishment of the United States) on or with regard to any guaranty of the timely payment of principal or interest on trust certificates or securities backed or based on mortgages that are secured by one to two family dwellings, and insured by the Federal Housing Administration pursuant to title II of the National Housing Act, or which are insured or guaranteed under the Serviceman's Readjustment Act of 1944 or chapter 37 of title 38 of the United States Code, or title V of the Housing Act of 1949. The fees charged for the guaranty of securities or trust certificates backed or based on all other types of mortgages, as authorized by other provisions of law shall be set by the Government National Mortgage Association at a level adequate to create reserves sufficient to meet anticipated claims based on actuarial analysis, and for no other purpose. The Secretary of Housing and Urban Development shall certify to Congress 90 days prior to any increase in these fees that the fees charged (or the proposed increases) are solely for the purposes specified in the preceding sentence.

(B) Fees or charges for the issuance of commitments or miscellaneous administrative fees shall remain at the level set for such fees as of September 1, 1985. Any increases in these fees shall be reasonably related to the cost of administering the program, and for no other purpose. The Secretary shall certify to Congress 90 days prior to any increase in these fees that the fees charged (or the proposed increases) are solely for the purposes specified in the preceding sentence.

(4) Section 203(c) of the National Housing Act is amended to read as follows:

(C) The Secretary is authorized to fix premium charges for the insurance of mortgages under the separate sections of this title but in the case of any mortgage such charge shall not be more than 3.8 per centum of the principal obligation of the loan or mortgage involved. The fee charged for the insurance of mortgages under this title shall be set by the Secretary at a level adequate to create reserves sufficient to meet anticipated claims based on actuarial analysis, and for no other purpose, except: that premium charges fixed for insurance (1) under sections 245, 247, 251, 252 or 253 or any other financing mechanism providing alternative methods for repayment of a mortgage that is determined by the Secretary to involve additional risk, or (2) under subsections (n) and (k) are not required to be the same as the premium charges for

mortgages insured under the other provisions of this section.".

(d) This section shall not be deemed to authorize any fee, premium or other charge in excess of that allowable under another statute or to authorize any fee, premium or other charge to be imposed that is not authorized under any other statute.

HOME MORTGAGE DISCLOSURE ACT EXTENSION

SEC. 406. Section 312 of the Home Mortgage Disclosure Act of 1975 is amended by striking out "1985" and inserting in lieu thereof "1988".

COUNSELING

SEC. 407. Section 106(a)(3) of the Housing and Urban Development Act of 1968 is amended by inserting before the period in the first sentence the following: ", and for fiscal year 1986 there are authorized to be appropriated such sums as may be approved in an appropriations Act".

RESEARCH AUTHORIZATION

SEC. 408. The second sentence of section 501 of the Housing and Urban Development Act of 1970 is amended—

(1) by striking out "and the last place it appears; and

(2) by inserting before the period at the end thereof the following: ", and by such sums as may be approved in an appropriations Act for fiscal year 1986".

INTERSTATE LAND SALES REGISTRATION FEES

SEC. 409. Section 1405(b) of the Interstate Land Sales Full Disclosure Act is amended by striking out "a fee, not in excess of $1,000" and inserting in lieu thereof "a reasonable fee".

FLOOD INSURANCE

SEC. 410. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "November 14, 1985" and inserting in lieu thereof "September 30, 1986".

(b) Section 1336(a) of the National Flood Insurance Act of 1968 is amended by striking out "November 14, 1985" and inserting in lieu thereof "September 30, 1986".

(c) Section 1376(c) of the National Flood Insurance Act of 1968 is amended to read as follows:

"(c) There are authorized to be appropriated for studies under this title such as may be approved in an appropriation Act for fiscal year 1986. Any amount appropriated under this subsection shall remain available until expended.".

(d) The premium rates charges for flood insurance under any program established pursuant to the National Flood Insurance Act of 1968 may not be increased during the period beginning on the date of the enactment of this Act and ending on September 30, 1986.

TITLE V—HOMELESS ASSISTANCE

DEFINITIONS

SEC. 501. For the purpose of this title—

(1) the term "emergency shelter" means an entire facility, or that part of a facility, which is used or designated to be used to provide temporary housing to not fewer than twenty individuals;

(2) the term "operating costs" means expenses incurred by States, local governments, and private nonprofit organizations operating transitional housing for the homeless with respect to—

(A) the administration, maintenance, minor repairs, and security of such housing;

(B) utilities, fuel, furnishings, and equipment for such housing; residents of such housing; and

(C) the conducting of the assessment of supportive services to the residents of such housing; and

(D) the provision of supportive services to the residents of such housing;

(3) the term "private nonprofit organization" means a secular or religious organization described in section 501(c) of the Internal Revenue Code of 1954 which is exempt from taxation under subtitle A of such code, and which has an accounting system and a voluntary board, and practices nondiscrimination in the provision of assistance;

(4) the term "Secretary" means the Secretary of Housing and Urban Development;

(5) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States;

(6) The term "supportive services" means assistance to the residents of transitional housing in obtaining permanent housing, medical and psychological counseling and supervision, employment counseling, referral to job training, nutritional counseling, and such other services essential for establishing independent living as the Secretary determines to be appropriate. Such term includes the provision of assistance to the residents of transitional housing in obtaining other Federal, State, and local government asssitance available for such person, including mental health benefits, employment counseling, referral to job training programs, and medical assistance; and

(7) the term "transitional housing" means a single- or multi-family structure suitable for the provision of housing and supportive services for not more than 15 homeless persons, who cannot presently live independently without supportive services in a supervised residential setting but who are believed capable of transition to independent living with 6 months of assistance in a stable environment.

PART 1—EMERGENCY FOOD AND SHELTER PROGRAM

NATIONAL BOARD

SEC. 511. (a) The Director of the Federal Emergency Management Agency shall, as soon as practicable after September 30, 1985, constitute a national board for the purpose of carrying out an emergency food and shelter program.

(b) The national board shall consist of seven members. The United Way of America, the Salvation Army, the National Council of Churches of Christ in the United States of America, the National Conference of Catholic Charities, the Council of Jewish Federations, Inc., the American Red Cross, and the Federal Emergency Management Agency shall each designate a representative to sit on the national board.

(c) The representative of the Federal Emergency Management Agency shall chair the national board.

NATIONAL BOARD TRANSITION

SEC. 512. (a) The national board constituted by the Director of the Federal Emergency Management Agency, pursuant to section 511, shall continue to be authorized until March 30, 1986, and on such date, the personnel, property, records, and undistributed program funds of such national board shall be transferred to the national board constituted under subsection (b).

(b) On or before March 30, 1986, the Secretary of Housing and Urban Development shall constitute a national board for the purpose of carrying out an emergency food and shelter program. This national board shall consist of the same representatives, or their successors, of the same organizations as the national board constituted pursuant to section 511(b), except that the Secretary of Housing and Urban Development shall designate a representative to replace the Federal Emergency Management Agency representative. Such national board shall assume authority on March 30, 1986.

DISTRIBUTION OF PROGRAM FUNDS

SEC. 513. The national boards constituted pursuant to sections 511 and 512(b) shall determine how program funds are to be distributed to individual localities. The national board shall identify localities having the highest need for emergency food and shelter assistance, based on unemployment and poverty rates and such other need-related data as the national boards deem appropriate, determine the amount and distribution of funds to these localities, and ensure that funds are properly accounted for.

AGENCY RESPONSIBILITIES

SEC. 514. (a) The Director of the Federal Emergency Management Agency shall award a grant for such amount as Congress appropriates for this program to the national board constituted pursuant to section 511 within 30 days after the beginning of fiscal year 1986, for the purpose of providing emergency food and shelter to needy individuals through private nonprofit organizations and through units of local government.

(b) The Director of the Federal Emergency Management Agency, or his representative, shall have the following responsibilities: provision of guidance, coordination, and staff assistance to the national board in carrying out the program; and cooperation and coordination with the Secretary of Housing and Urban Development in the conducting of an audit of program funds awarded to the national board constituted pursuant to section 511 or transferred to the national board constituted pursuant to section 512(b). The responsibilities of the Director of the Federal Emergency Management Agency with respect to this program shall end with the completion of the audit for program funds distributed during fiscal year 1986.

(c) The Secretary of Housing and Urban Development shall award a grant for such program to the national board constituted pursuant to section 512(b) within 30 days after the beginning of fiscal years 1987 and 1988, for the purpose of providing emergency food and shelter to needy individuals through private nonprofit organizations and through units of local government.

(d) The Secretary of Housing and Urban Development shall have the following responsiblities: provision of guidance, coordination, and staff assistance to the national board in carrying out the program; and the conducting of an audit of program funds awarded to and transferred to the national boards constituted pursuant to sections 511 and 512(b).

(e)(1) In carrying out the responsibilities under subsection (d), the Secretary shall coordinate activities with the Federal Interagency Task Force on Food and Shelter, chaired by the Secretary of Health and Human Services, to identify vacant and surplus Federal facilities which could be renovated or converted for use as emergency shelter facilities for the homeless.

(2) Not later than 3 months after the end of fiscal year 1986, the Secretary shall submit to the Congress a report on obsta-

cles, if any, including agency rules or procedures, to the availability of vacant and surplus Federal facilities for renovation or conversion to use as emergency shelter facilities for the homeless, with recommendations for legislative or administrative changes to overcome such obstacles.

LOCAL BOARDS

SEC. 515. (a) Each locality designated by the national boards constituted pursuant to sections 511 and 512(b) shall constitute a local board for the purpose of determining how program funds allotted to the locality will be distributed. The local board shall consist, to the extent practicable, of representatives of the same organizations as the national boards, except that the mayor or other appropriate heads of government will replace the Federal Emergency Management Agency or Department of Housing and Urban Development member; organizations providing services on a locality wide basis should also be allowed to serve on the local board. The chair of the local board shall be elected by a majority of the members of the local board. Local boards are encouraged to expand participation of other private nonprofit organizations on the local board.

(b) Local Boards shall have the following responsibilities: determining which private nonprofit organizations or public organizations of the local government in the individual locality shall receive grants to act as service providers; monitoring recipient service providers for program compliance; reallocation of funds among service providers; ensuring proper reporting; and coordinating with other Federal, State, and local government assistance programs available in the locality.

(c) Prior to March 30, 1986, local boards constituted pursuant to subsection (a) shall be accountable to the national board constituted pursuant to section 511. On and after March 30, 1986, local boards constituted pursuant to subsection (a) shall be accountable to the national board constituted pursuant to section 511(b).

LOCAL HOMELESS ASSISTANCE PLAN

SEC. 516(a) At the end of each fiscal year, each local board shall submit to the national board constituted pursuant to section 512(b), a plan describing programs, goals, and objectives for providing assistance to the homeless in that locality. The plan shall be developed in cooperation with the local government head represented on the local board.

(b) The local plan shall address the following subjects: description of existing shelter, mass feeding, and food bank activities in that locality, including activities not receiving assistance under this subtitle; use and availability of all public and private resources in the locality to assist the homeless; coordination of all public and private services and resources in that locality to assist the homeless; coordination among all shelter providers in the locality to use all available shelter space for the homeless; and preservation of low-income housing in the locality.

(c) The local plan shall be placed on file in the office of the local government head represented on the local board and shall be made available to the public. The local plan shall be forwarded to that individual locality's representatives in Congress. The national board shall maintain files of local plans and make them available upon request to other localities.

(d) The preparation and submission of the local plan shall be regarded as the legal duty of the local board, but failure to do so shall not be grounds for the withholding of funds appropriated under this title from that locality. Any citizen residing in the locality in which such local board is constituted shall have standing in the Federal district court of jurisdiction to seek an order compelling the preparation and submission of the local plans as required by this section. The substance and contents of the local plan shall be within the sole discretion of the local board and shall not be subject to administrative or judicial review.

SERVICE PROVIDERS

SEC. 517. Designation by the local board of a service provider to receive program funds should be based upon a private nonprofit organization's or unit of local government's ability to deliver emergency food and shelter to needy individuals and such other factors as are deemed appropriate to program objectives by the local board.

USE OF FUNDS

SEC. 518. (a) The national boards constituted by sections 511 and 512(b) may authorize the following use of funds to address the emergency food and shelter needs of needy individuals:

(1) Expenditures necessary to purchase emergency food and shelter for needy individuals, to supplement and extend currently available resources and not to substitute or reimburse ongoing programs and services; and

(2) Expenditures necessary to conduct minimum rehabilitation of existing mass shelter or mass feeding facilities to make facilities safe, sanitary, and bring them into compliance with local building codes.

(b)(1) Local boards are authorized to expend up to 25 percent of the funds allotted to that locality for substantial renovation or conversion, but no acquisition or new construction, of buildings for use as emergency shelter facilities to provide additional shelter space. Such expenditures shall be made in the form of noninterest bearing advances, repayment of which shall be waived if—

(A) the applicant utilizes the building as an emergency shelter facility for not less than the 10-year period following the completion of such renovation or conversion, or

(B) the Secretary determines that such facility is no longer needed to provide shelter to the homeless and approves use of the building for another charitable purpose for the remainder of such 10-year period. If the recipient of such advance fails to comply with the conditions for such a waiver, the recipient shall repay to the Secretary in cash the full amount of the advance received on such terms as the Secretary shall require. It shall be the responsibility of the local board to obtain documentation, signed by the responsible official, showing that the recipient of such advance is aware of and agrees to the conditions of its receipt.

(2) Local boards are encouraged to provide, to the neighborhood in which a new emergency shelter facility is to be located, adequate notice and an opportunity to comment. Local boards are also encouraged to achieve the widest possible distribution of emergency shelters throughout the locality to avoid a disproportionate burden on any one section or neighborhood of the locality.

LIMITATION ON CERTAIN COSTS

SEC. 519. Not more than 3 percent of the total appropriation for this program each year may be expended for the costs of administration.

PROGRAM GUIDELINES

SEC. 520. (a) The national boards constituted pursuant to section 511 and 512(b) shall establish written guidelines for carrying out this program, including methods for identifying localities with the highest need for emergency food and shelter assistance; methods for determining amount and distribution to these localities; eligible program costs, with the aim of providing emergency essential services based on currently existing needs; and responsibilities and reporting requirements of the national boards, local boards, and service providers.

(b) These guidelines shall be published annually, and whenever modified, in the Federal Register. The national boards shall not be subject to the procedural rulemaking requirements of subchapter II of chapter 5 of title 5, United States Code.

(c) Guidelines established by the national board constituted pursuant to section 511 shall continue in effect until modified or revoked by that board or by the national board constituted pursuant to section 512(b).

AUTHORIZATION

SEC. 521. (a) To carry out this part, there are authorized to be appropriated such sums as may be approved in an appropriation Act for fiscal year 1986, $88,000,000 in fiscal year 1987, and $91,000,000 in fiscal year 1988.

(b) Any appropriated funds not obligated in a fiscal year shall remain available for obligation during the following fiscal year.

SURPLUS FOOD DISTRIBUTION

SEC. 522. The Commodity Credit Corporation shall process and distribute surplus commodities acquired by the corporation for the purpose of carrying out the food distribution and emergency shelter program in cooperation with the national boards constituted pursuant to sections 511 and 512(b)

PART 2—TRANSITION TO INDEPENDENCE DEMONSTRATION PROJECT

AUTHORITY TO MAKE GRANTS

SEC. 531. (a) The Secretary of Housing and Urban Development shall make grants to States, local governments, or private nonprofit organizations for the operation of demonstration projects to develop and apply innovative approaches in providing transitional housing and supportive services to the homeless to assist them in the transition to independent living.

(b) Grants under subsection (a) may be made in the form of—

(1) annual payments for operating expenses of transitional housing, not to exceed 75 percent of the annual operating expenses of such housing;

(2) technical assistance in establishing and operating transitional housing and providing supportive services to the residents of such housing to assist them in the transition to independent living; and

(3) a one-time only non-interest bearing advance, not to exceed $100,000, for the purposes of acquiring, rehabilitating, or acquiring and rehabilitating an existing structure for use in providing transitional housing, if the applicant agrees to utilize such structure as transitional housing, if the applicant agrees to utilize such structure as transitional housing for not less than 5 years. Repayments of such advance shall be waived if the applicant utilizes the structure as transitional housing for not less than the 10-year period following the initiation of operation of such transitional housing facility, or if the Secretary determines that such

structure is no longer needed for use as transitional housing and approves the use of such structure for another charitable purpose for the remainder of such 10-year period. If the applicant fails to comply with the conditions for waiver of repayment, the applicant shall repay to the Secretary in cash the full amount of the advance received on such terms as the Secretary shall require.

(c) Grants made under this section are to be used to supplement and extend currently available resources and not to substitute or reimburse ongoing programs and services.

APPLICATIONS FOR GRANTS

SEC. 532. Each application for a grant submitted by a State, local government, or private nonprofit organization shall contain—

(1) documentary material demonstrating that such applicant has the ability and resources necessary to operate transitional housing;

(2) documentary material describing the program and supportive services intended to be provided in such transitional housing, including the innovative quality of the proposed program;

(3) documentary material demonstrating that the State, local government, or private nonprofit organization involved has provided the emergency food and shelter program local board, constituted pursuant to section 515, if such local board has been constituted in the locality where the proposed transitional housing will be located, an opportunity to comment with respect to this application, and a statement as to whether the local board approves or disapproves of such application and its reasons for any disapproval; and

(4) such other information or material as the Secretary shall establish.

ALLOCATION OF GRANTS

SEC. 533. In selecting States, local governments, or private nonprofit organizations for assistance in providing transitional housing under this title, the Secretary shall consider—

(1) the innovative quality of the proposal to provide transitional housing and supportive services to the homeless to assist them in the transition to independent living;

(2) the ability of the State, local government, or private nonprofit organization to develop and operate transitional housing for homeless persons and to provide supportive services to the residents of such housing;

(3) the need for such transitional housing and supportive services in the locality to be served; and

(4) such other factors as the Secretary determines to be appropriate for purposes of carrying out the demonstration project established in this Act in an effective and efficient manner.

PROGRAM REQUIREMENTS

SEC. 534. (a) Each State, local government, or private nonprofit organization receiving assistance under this part shall agree—

(1) to operate transitional housing assisting residents in the transition to independent living and generally limiting the stay of individual residents to not more than 6 months;

(2) to conduct an assessment of the supportive services required by the residents of such transitional housing to assist them in the transition to independent living;

(3) to employ a full-time residential supervisor with sufficient expertise to provide, or supervise the provision of, supportive services to the residents of such housing;

(4) to keep and make available to the Secretary such records of the expenditure of funds as the Secretary may require by rule; and

(5) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the demonstration project established by this part in an effective and efficient manner.

(b) Each homeless individual residing in transitional housing assisted under this part shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

REGULATIONS

SEC. 535. Not later than 120 days following the date of enactment of this Act, the Secretary shall issue such regulations as may be necessary to carry out the provisions of this part.

REPORTS TO CONGRESS

SEC. 536. (a) The Secretary shall submit to Congress—

(1) not later than 3 months after the end of each of the fiscal years 1986 and 1987, an interim report summarizing the activities carried out under this part during such fiscal year and setting forth any preliminary findings, conclusions, or recommendations of the Secretary as a result of such activities; and

(2) not later than 6 months after the end of fiscal year 1988, a final report summarizing all activities carried out under this part and setting forth any findings, conclusions, or recommendations of the Secretary as a result of such activities.

(b) Such interim and final reports shall address—

(1) the cost of operating transitional housing and providing supportive services to the homeless to assist them in the transition to independent living;

(2) the various types of transitional housing assisted under this part, including innovative approaches to assisting the homeless in the transition to independent living;

(3) the social, financial, and other advantages and disadvantages of transitional housing and supportive services as a means of assisting the homeless;

(4) the success of transitional housing programs assisted under this part, as measured in terms of placement of homeless individuals in permanent housing, placement in employment, and reductions in welfare dependency; and

(5) such other findings conclusions, and recommendations as the Secretary deems appropriate with regard to assisting the homeless in the transition to independent living.

AUTHORIZATION

SEC. 537. To carry out this part, there are authorized to be appropriated such sums as may be approved in an approriation Act for fiscal year 1986, and $15,000,000 in each of the fiscal years 1987 and 1988. Any amount appropriated under this section shall remain available until expended.●

By Mr. GORTON (for himself, Mr. DANFORTH, Mr. RIEGLE, Mr. HEFLIN, Mr. GORE, Mr. ROCKEFELLER, Mr. DOLE, Mr. HOLLINGS, and Mr. INOUYE):

S. 1914. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit cooperative agreements between industry and laboratories owned and operated by the Federal Government, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL TECHNOLOGY TRANSFER ACT

Mr. GORTON. Mr. President, our country is the world leader in innovation. Our scientists and engineers work on the leading edge of almost every field of research. And yet, our Nation faces strong competition in the international marketplace in even the newest areas of technology, where we should enjoy the strongest advantage. How can we translate our successes in the laboratory into new products and processes in the marketplace? How can we accelerate the rate of technological innovation for the benefit of consumers here at home and for the benefit of American industry competing in the international marketplace?

One way, I believe, is to open up our Federal laboratories to industry and to universities for cooperative research. The Federal Government will invest $60 billion in research and development in 1986. Much of that money goes to our universities. Over $18 billion, however, goes to 380 Government laboratories, which employ 1 out of every 6 research scientists in this country. There are eight of these laboratories in my home State of Washington, conducting research in such diverse areas as agriculture, fisheries, mining, and energy.

A few years ago a White House panel chaired by David Packard was commissioned to see if we are getting our money's worth out of the Federal laboratories. It concluded that the Federal laboratories need to provide much more access to their facilities by universities and industry.

This year the President's Commission on Industrial Competitiveness concluded that the United States needs to support basic scientific research and make it more useful for commercial purposes. There have been other reports, as well. The National Governors' Association published a report on State initiatives in technological innovation which concluded that the national laboratories are far from realizing their full potential as catalysts for joint research.

These reports are unanimous in their advocacy of allowing the Federal labs to enter into the kinds of joint research and licensing arrangements with which the universities have had to much success. The Commerce Committee held a series of three hearings on these subjects this year, which also led me to the same conclusions. Our job in Congress is to clear away unnecessary legal and institutional barriers to technology transfer, and that is the purpose of this bill.

The bill which I and my colleagues are introducing today gives explicit permission for the federally operated laboratories to enter into cooperative

research arrangements with private industry, universities, and other persons. The authority is broad and permissive. It is designed to decentralize the decisionmaking about cooperative research, and about the licensing of inventions.

The bill also establishes a system to reward our scientists both for their work in areas with commercial potential and for outstanding work in noncommercial areas. It includes royalty sharing with the inventor of a minimum of 15 percent of the royalties of a given invention, and it directs agencies to use the existing cash award system to reward scientists and technicians for innovation. Our scientists, engineers, and technicians are the Government's most precious scientific resource, and must be rewarded accordingly.

The bill also makes official the status of the Federal Laboratory Consortium for Technology Transfer. This organization has been providing an effective networking function between the Federal laboratories for more than a decade. It deserves to be recognized and funded sufficiently to continue its work in transferring technology to the private sector.

Finally, the bill amends the Stevenson-Wydler Technology Innovation Act of 1980 to make it more acceptable, less confusing, and to bring it into conformity with existing practice.

Mr. President, this bill is the result of work by many people. Many of its provisions have their origin in S. 65, a bill introduced by Senators DOLE and DANFORTH. S. 65 was referred to the Judiciary Committee. Because of the similarities, I would not object to referring this legislation to Judiciary for a short period of time.

I am enthusiastic about the potential for technological innovation and development in our Federal laboratories. Some already have outstanding accomplishments that have found their way into our economy. I hope that this legislation, once enacted, will clear the way for many more.

I ask unanimous consent that a copy of the bill and a section-by-section analysis be printed in the RECORD.

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

S. 1914

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 Technology Transfer Act of 1985".

UTILIZATION OF FEDERAL TECHNOLOGY

SEC. 2. (a) Section 11(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(a)) is amended—

(1) by inserting "(1)" after "POLICY.—"; and

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

"(2) Each laboratory director shall ensure that efforts to transfer technology are considered positively in laboratory job descriptions, employee promotion policies, and evaluation of the job performance of scientists and engineers in the laboratory.".

(b)(1) Section 11(b) of such Act (15 U.S.C. 3710(b)) is amended—

(A) by striking "a total annual budget exceeding $20,000,000 shall provide at least one professional individual full-time" and inserting in lieu thereof "200 or more full-time scientific, engineering, and related technical positions shall provide one or more full-time equivalent positions";

(B) by striking "requirements set forth in (1) and/or (2) of this subsection" and inserting in lieu thereof "requirement set forth in clause (2) of the preceding sentence"; and

(C) by striking "either requirement (1) or (2)" in the last sentence and inserting in lieu thereof "such requirement".

(2) Section 11(c) of such Act (15 U.S.C. 3710(c)) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) to prepare application assessments for selected research and development projects in which that laboratory is engaged and which in the opinion of the laboratory may have potential commercial applications;";

(B) by inserting "all" before "federally owned" in paragraph (2);

(C) by striking "the Center for the Utilization of Federal Technology" in paragraph (3) and inserting in lieu thereof "the National Technical Information Service, the Federal Laboratory Consortium for Technology Transfer,";

(D) by striking "in response to requests from State and local government officials." in paragraph (4) and inserting in lieu thereof "to State and local government officials; and"; and

(E) by adding at the end thereof the following:

"(5) to participate, where feasible, in regional, State, and local government programs designed to facilitate or stimulate the transfer of technology for the benefit of the region, State, or local jurisdiction in which the federal laboratory is located.".

(c) Section 11(d) of such Act (15 U.S.C. 3710(d)) is amended—

(1) by striking all from "(d)" through "shall—" and inserting in lieu thereof the following:

"(d) DISSEMINATION OF TECHNICAL INFORMATION.—The National Technical Information Service shall—";

(2) by striking paragraph (2);

(3) by striking "existing" in paragraph (3), and redesignating such paragraph as paragraph (2);

(4) by striking paragraph (4) and inserting in lieu thereof the following:

"(3) receive requests for technical assistance from State and local governments, respond to such requests with published information available to the Service, and refer such requests to the Federal Laboratory Consortium for Technology Transfer to the extent that such requests require a response involving more than the published information available to the Service;";

(5) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(6) by striking "(c)(4)" in paragraph (4), as so redesignated, and inserting in lieu thereof "(c)(3)".

(d) Section 11(e) of such Act (15 U.S.C. 3710(e)) is amended by striking "Center for the Utilization of Federal Techology" and inserting in lieu thereof "Assistant Secretary for Productivity, Technology, and Innovation".

ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM FOR TECHNOLOGY TRANSFER

SEC. 3. Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710), as amended by section 2 of this Act, is further amended—

(1) (1) redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM FOR TECHNOLOGY TRANSFER.—(1) There is established the Federal Laboratory Consortium for Technology Transfer (hereinafter referred to as the 'Consortium') which, in cooperation with Federal laboratories and the private sector, shall—

"(A) develop and, with the consent of the Federal laboratory concerned, administer techniques, training courses, and materials concerning technology transfer to increase the awareness of Federal laboratory employees regarding the commercial potential of laboratory technology and innovations;

"(B) furnish advice and assistance requested by Federal agencies and laboratories for use in their technology transfer programs (including the planning of seminars for small business and other industry);

"(C) provide a clearinghouse, at the laboratory level, for requests for technical assistance from States and units of local governments, businesses, industrial development organizations, not-for-profit organizations (including universities), Federal agencies and laboratories, and other persons, and—

"(i) to the extent that a response to such requests can be made with published information available to the National Technical Information Service, refer such requests to that Service; and

"(ii) otherwise refer such requests to the appropriate Federal laboratories and agencies;

"(D) facilitate communication and coordination between Offices of Research and Technology Applications of Federal laboratories;

"(E) utilize (with the consent of the agency involved) the expertise and services of the National Science Foundation, the Department of Commerce, the National Aeronautics and Space Administration, and other Federal agencies, as necessary;

"(F) with the consent of any Federal laboratory, facilitate the use by such laboratory of appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems;

"(G) with the consent of any Federal laboratory, assist such laboratory to establish technical volunteer service programs for the purpose of providing technical assistance to communities related to such laboratory; and

"(H) facilitate communication and cooperation between Offices of Research and Technology Applications of Federal laboratories and regional, State, and local technology transfer organizations.

"(2) The membership of the Consortium shall consist of the Federal laboratories described in clause (1) of subsection (b) and such other laboratories as may choose to join the Consortium. The representation to the Consortium shall include a senior staff member of each Federal laboratory which is a member of the Consortium and a representative appointed from each Federal agency with one or more laboratories.

"(3) The representatives to the Consortium shall elect a Chairman of the Consortium.

"(4) The Director of the National Bureau of Standards shall provide the Consortium, on a reimbursable basis, with administrative services, such as office space, personnel, and support services of the Bureau, as requested by the Consortium and approved by such Director.

"(5) Not later than one year after the date of the enactment of this subsection, and every year thereafter, the Chairman of the Consortium shall submit a report to the President, to the appropriate authorization and appropriation committees of both Houses of the Congress, and to each agency with respect to which a transfer of funding is made (for the fiscal year or years involved) under paragraph (6), concerning the activities of the Consortium and the expenditures made by it under this subsection during the year for which the report is made.

"(6)(A) Subject to subparagraph (B), an amount equal to 0.005 percent of that portion of the research and development budget of each Federal agency that is to be utilized by the laboratories of such agency for a fiscal year referred to in subparagraph (B)(ii) shall be transferred by such agency to the National Bureau of Standards at the beginning of the fiscal year involved. Amounts so transferred shall be provided by the Bureau of the Consortium for the purpose of carrying out activities of the Consortium under this subsection.

"(B) A transfer may be made by any Federal agency under subparagraph (A), for any fiscal year, only if—

"(i) the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000; and

"(ii) such transfer is made with respect to the fiscal year 1987, 1988, 1989, 1990, or 1991.

"(C) The heads of Federal agencies and their designees, and the directors of Federal laboratories, may provide such additional support for operations of the Consortium as they consider appropriate.".

FUNCTIONS OF THE SECRETARY OF COMMERCE

SEC. 4. Section 11 of such Act (15 U.S.C. 3710), as amended by this Act, is further amended by adding at the end thereof the following:

"(g) FUNCTIONS OF THE SECRETARY.—(1) The Secretary, in consultation with other Federal agencies, may—

"(A) make available to interested agencies the expertise of the Department of Commerce regarding the commercial potential of inventions and methods and options for commercialization which are available to Federal laboratories, including research and development limited partnerships;

"(B) develop and disseminate to appropriate agency and laboratory personnel model provisions for use on a voluntary basis in cooperative research and development arrangements; and

"(C) furnish advice and assistance, upon request, to Federal agencies concerning their cooperative research and development programs and projects.

"(2) Two years after the date of enactment of this subsection, and every two years thereafter, the Secretary shall submit a report to the President and the Congress on the use by the agencies and the Secretary of the authorities specified in this Act. Other Federal agencies shall, to the extent permitted by law, provide the Secretary with all information necessary to prepare such reports.".

COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS

SEC. 5. The Stevenson-Wydler Technology Innovation Act of 1980 is amended by redesignating sections 12 through 15 as sections 15 through 18, respectively, and by inserting after section 11 the following:

"SEC. 12. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

"(a) GENERAL AUTHORITY.—(1) Each Federal agency may permit the director of any of its Government-operated Federal laboratories—

"(A) to enter into cooperative research and development arrangements (subject to such regulations or review procedures as the agency considers appropriate) with other Federal agencies, units of State or local government, industrial organizations (including corporations, partnerships and limited partnerships), public and private foundations, non-profit organizations (including universities), or other persons (including licensees of inventions owned by the Federal agency); and

"(B) to negotiate licensing agreements under section 207 of title 35, United States Code, or other authorities for Government-owned inventions made at the laboratory and other inventions of Federal employees that may be volunatrily assigned to the Government.

"(2) Under arrangements entered into pursuant to paragraph (1), a laboratory may—

"(A) accept funds, services, and property from collaborating parties and provide services and property to collaborating parties;

"(B) grant or agree to grant in advance to a collaborating party patent licenses, assignments, or options thereto, in any invention made by a Federal employee under the arrangement, retaining such rights as the Federal agency considers appropriate;

"(C) waive, in whole or in part, any right of ownership which the Government may have under any other statute to any inventions made by a collaborating party or employee of a collaborating party under the arrangement; and

"(D) to the extent consistent with any applicable agency requirements, permit employees or former employees of the laboratory to participate in efforts to commercialize inventions they made while in the service of the United States.

"(3) Each agency shall maintain a record of all agreements entered into under this section.

"(b) DEFINITION.—As used in this section, the term—

"(1) 'cooperative research and development agreement' means any agreement between one or more Federal laboratories and one or more non-Federal parties under which the Government provides personnel, services, facilities, equipment, or other resources (but not funds to non-Federal parties) and the non-Federal parties provide funds, personnel, services, facilities, equipment, or other resources toward the conduct of specified research or development efforts which are consistent with the missions of the agency, except that such term does not include a procurement contract or cooperative agreement as those terms are used in section 6303, 6304, and 6305 of title 31, United States Code; and

"(2) 'laboratory' means a facility or group of facilities owned, leased, or otherwise used by a Federal agency, a substantial purpose of which is the performance of research and development by employees of the Federal Government.".

"(c) RELATIONSHIP TO OTHER LAWS.—Nothing in this section is intended to limit or diminish existing authorities of any agency.".

REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL OF FEDERAL AGENCIES

SEC. 6. The Stevenson-Wydler Technology Innovation Act of 1980, as amended by this Act, is further amended by inserting after section 12 the following:

"SEC. 13. REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL OF FEDERAL AGENCIES

"(a) CASH AWARDS PROGRAM.—The head of each Federal agency that is making expenditures at a rate of more than $50,000,000 per fiscal year for research and development in its Goverment-operated laboratories shall use the appropriate statutory authority to develop and implement a cash awards program to reward its scientific, engineering, and technical personnel for—

"(1) inventions, innovations, or other outstanding scientific or technological contributions of value to the United States due to commercial applications or due to contributions to missions of the Federal agency or the Federal government; or

"(2) exemplary activities that promote the domestic transfer of science and technology developed within the Federal Government and result in utilization of such science and technology by American industry or business, universities, State or local governments, or other non-Federal parties.

"(b) PAYMENT OF ROYALTIES.—Any royalties or other income received by an agency from the licensing or assignment of inventions under this section or under section 207 of title 35, United States Code, or other authority shall be transferred to the agency's government-operated laboratories with a substantial percentage being returned to the laboratories whose inventions produced the royalties or income. Such royalties or income shall be disposed of as follows:

"(1) At least 15 percent of the royalties or other income received each year by the laboratory on account of any invention shall be paid to the inventor or coinventors if they were employees of the agency at the time the invention was made. Payments made under this paragraph are in addition to the regular pay of the employee and to any awards made to that employee, and such payments shall not affect the entitlement or limit the amount of the regular pay, annuity, or other awards to which the employee is otherwise entitled or for which the employee is otherwise eligible.

"(2) The balance of any royalties or related income earned during any fiscal year after paying the inventors' portions under paragraph (1) may be retained by the laboratory up to the limits specified in this paragraph, and used—

"(A) for mission-related research and development of the laboratory;

"(B) to support development and education programs for employees of the laboratory;

"(C) to reward employees of the laboratory for contributing to the development of new technologies and assisting in the transfer of technology to the private sector, and for inventions of value to the Government that will not produce royalties;

"(D) to further scientific exchange to and from the laboratory; and

"(E) for payment of patenting costs and fees and other expenses incidental to promoting, administering, and licensing inventions, including the fees or costs for services of other agencies or other persons or organi-

zations for invention management and licensing services.

If the balance for any laboratory after paying the inventors' shares under paragraph (1) exceeds 5 percent of the annual budget of the laboratory, 75 percent of the excess shall be paid to the Treasury of the United States and the remaining 25 percent shall be used for the purposes listed in subparagraphs (A) through (E), by the end of the fiscal year subsequent to the one in which they were received. Any funds not so used or obligated by the end of such fiscal year shall be paid to the Treasury of the United States.

"(c) ASSIGNED INVENTIONS.—If the invention was one assigned to the agency either (1) by a contractor, grantee, or the recipient of a cooperative agreement of the agency, or (2) by an employee of the agency that was not working in the laboratory at the time the invention was made, the agency unit that funded or employed or assigned the assignee shall, for purposes of this section, be considered to be a laboratory.

"(d) REPORTS.—In making their annual budget submissions, Federal agencies shall submit to the appropriate authorization and appropriation committees of both Houses of the Congress summaries of the amount of royalties or other income received and expenditures made (including inventor awards) under this section.".

EMPLOYEE ACTIVITIES

SEC. 7. The Stevenson-Wydler Technology Innovation Act of 1980, as amended by this Act, is further amended by inserting after section 13 the following:

"SEC. 14. EMPLOYEE ACTIVITIES.

"(a) IN GENERAL.—If a Federal agency which has the right of ownership to an invention under this Act does not intend to file for a patent application or otherwise to promote commercialization of such invention, the agency may allow the inventor, if the inventor is a Government employee or former employee who made the invention during the course of employment with the Government, to retain title to the invention (subject to reservation by the Government of a nonexclusive, nontransferrable, irrevocable, paid up license to practice or have practiced the invention throughout the world by or on behalf of the Government). In addition, the agency may condition the inventor's right to title on the timely filing of a patent application in cases when the Government determines that it has or may have a need to practice the invention.

"(b) DEFINITION.—For purposes of this section, Federal employees include 'special Government employees' as defined in section 202 of title 18, United States Code.

"(c) RELATIONSHIP TO OTHER LAWS.—Nothing in this section is intended to limit or diminish existing authorities of any agency.".

MISCELLANEOUS AND CONFORMING AMENDMENTS

SEC. 8. (a) Section 10 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3709) is repealed.

"(b)(1) Section 3(2) of such Act (15 U.S.C. 3702(2)) is amended by striking "centers for industrial technology" and inserting in lieu thereof "cooperative research centers".

(2) Section 4 of such Act (15 U.S.C. 3703) is amended—

(A) by striking "Industrial Technology" in paragraph (1) and inserting in lieu thereof "Productivity, Technology, and Innovation";

(B) by striking "'Director' means the Director of the Office of Industrial Technology" in paragraph (3) and inserting in lieu thereof "'Assistant Secretary' means the Assistant Secretary for Productivity, Technology, and Innovation";

(C) by striking "Centers for Industrial Technology" in paragraph (4) and inserting in lieu thereof "Cooperative Research Centers";

(D) by striking paragraph (6), and redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and

(E) by striking "owned and funded" in paragraph (6), as so redesignated, and inserting in lieu thereof "owned, leased, or otherwise used by a Federal agency and funded".

(3) Section 5(a) of such Act (15 U.S.C. 3704(a)) is amended by striking "Industrial Technology" and inserting in lieu thereof "Productivity, Technology, and Innovation".

(4) Section 5(b) of such Act (15 U.S.C. 3704(b)) is amended by striking "DIRECTOR" and inserting in lieu thereof "ASSISTANT SECRETARY", and by striking all from "a Director of the Office" and inserting in lieu thereof "an Assistant Secretary for Productivity, Technology, and Innovation.".

(5) Section 5(c) of such Act (15 U.S.C. 3704(c)) is amended by striking "the Director" each place it appears and inserting in lieu thereof "the Assistant Secretary".

(6) The heading of section 6 of such Act is amended to read as follows:

"SEC. 6. COOPERATIVE RESEARCH CENTERS.".

(7) Section 6(a) of such Act (15 U.S.C. 3705(a)) is amended by striking "Centers for Industrial Technology" and inserting in lieu thereof "Cooperative Research Centers".

(8) Section 6(b)(1) of such Act (15 U.S.C. 3705(b)(1)) is amended by striking "basic and applied".

(9) Section 6(e) of such Act (15 U.S.C. 3705(e)) is amended to read as follows:

"(e) RESEARCH AND DEVELOPMENT UTILIZATION.—In the promotion of technological innovation and commercialization of research and development efforts by Centers under this section, chapter 18 of title 35, United States. Code, shall apply.".

(10) Section 6(f) of such Act (15 U.S.C. 3705(f)) is repealed.

(11) The heading of section 8 of such Act is amended by striking "centers for industrial technology" and inserting in lieu thereof "cooperative research centers".

(12) Section 8(a) of such Act (15 U.S.C. 3707(a)) is amended by striking "Centers for Industrial Technology" and inserting in lieu thereof "Cooperative Research Centers".

(c) Section 4 of such Act (15 U.S.C. 3703), as amended by subsection (b)(2) of this section, is further amended by adding at the end thereof the following:

"(8) 'Federal agency' means any executive agency as defined in section 105 of title 5, United States Code, and the military departments, as defined in section 102 of such title.

"(9) 'Invention' means any invention or discovery which is or may be patentable or otherwise protected under title 35, United States Code, or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

"(10) 'Made", when used in conjuction with any invention, means the conception or first actual reduction to practice of such invention.".

(d)(1) Such Act (as amended by this Act) is further amended by redesignating sections 11 through 18 as sections 10 through 17, respectively.

(2)(A) Section 5(d) of such Act (15 U.S.C. 3704(d)) is amended by inserting "(as then in effect)" after "Act" the second time it appears.

(B) Section 8(a) of such Act (15 U.S.C. 3707(a)) is amended by striking the last sentence.

(C) Section 9(d) of such Act (15 U.S.C. 3708(d)) is amended by striking "or 13" and inserting in lieu thereof "10, or 14".

SECTION-BY-SECTION ANALYSIS

Section 2 contains amendments to the Stevenson-Wydler Technology Innovation Act of 1980. It amends the policy statement to provide that technology transfer efforts should be treated positively in evaluations and promotions of federal employees. It changes the size of a laboratory which must have one full-time staffer in its office of research and technology applications from a laboratory with $20,000,000 annual budget to one with 200 or more scientists and technicians. And it eliminates the waiver of this requirement.

Section 2 changes the name of the Center for the Utilization of Federal Technology to the National Technical Information Service, and clarifies its duties. It also changes the reporting requirement for the technology transfer functions in Stevenson-Wydler from the Center for the Utilization of Federal Technology to the Assistant Secretary of Commerce for Productivity, Technology, and Innovation.

Section 3 adds a new section to Stevenson-Wydler to establish the Federal Laboratory Consortium for Technology Transfer. The section establishes the Consortiums's duties and membership, provide it with administrative services, and provides that each agency shall provide the Consortium with an amount equal to .005 percent of its laboratory's research and development budget for 1978 through 1991.

Section 4 amends Stevens-Wydler to clarify the duties of the Secretary of Commerce and to require a biannual report to Congress on how federal agencies are using the authorities established under this Act.

Section 5 adds a new section to Stevenson-Wydler authorizing agencies to permit their government-operated laboratories to enter into cooperative research and development arrangements with private industry, other units of government, universities, or other persons. The section also authorizes the agencies to permit their laboratory directors to negotiate patent licensing agreements.

To effectuate cooperative research agreements, the section gives federal laboratories the authority to accept funds, services, and property from the collaborating parties; to agree to grant in advance licenses to patents and inventions made by federal employees; to waive the government's right of ownership to inventions made by an employee of a collaborating party; and to permit employees to help commercialize their inventions, to the extent this is consistent with agency requirements.

The section defines cooperative agreements as those in which the federal government provides resources, but not funds, along with a collaborating party, toward the conduct of specific research or development which is consistent with the missions of the agency.

Section 6 requires federal agencies which do a substantial amount of research and development to set up a cash award system for rewarding scientific and technical personnel for inventions, innovations, or other out-

standing scientific and technological contributions. It also requires federal agencies to transfer royalties from inventions to its laboratories, with a substantial percentage going to the laboratory which produced the invention. At least 15% of the royalties from a given invention must be paid to the inventor, and the balance may be retained by the laboratory, up to 5% of its annual budget. At that point the laboratory must return 75% of its royalty income to the Treasury, and may keep the remaining 25%. The laboratory may use the income for mission-related research and development, for education programs for laboratory employees, for employee awards, for scientific exchange, and to pay the costs of commercializing inventions.

Section 7 authorizes federal agencies to transfer rights of ownership in an invention to the inventor if the agency does not intend to commercialize or file for a patent license on the invention.

Section 8 contains miscellaneous and conforming amendments to Stevenson-Wydler which generally bring the Act into conformity with existing practice.

Mr. DOLE. Mr. President, I am pleased to join Senator GORTON in introducing this bill which would amend the Stevenson-Wydler Technology Innovation Act so that it authorizes agencies to allow their Government-operated labs to enter into cooperative research agreements with universities and private business.

Specifically, this bill contains the key provisions of the "Federal Laboratory Utilization Act of 1985", S. 64, which I introduced at the beginning of this legislative session. Thanks to the hard work of Senator GORTON and his staff, certain revisions have been made to the bill which have broadened its base of support.

Like S. 64, the bill we are introducing today would provide legal authority for Federal labs to enter into collaborative research agreements and to license inventions resulting from those agreements. It would also permit the labs to pay a share of the royalties so generated to the inventors. Most of the remainder of the royalties could be used to reward other employees, as well as to support employee development programs, further technology transfer, pay for patenting costs, and mission related research. The bill also authorizes the Department of Commerce to assist agencies and their labs prepare for and implement these new authorities.

Unlike S. 64, this bill contains a provision recognizing the Federal laboratory consortium—a presently informal network of laboratory technology transfer officials who steer people with technological problems to the labs best able to solve them. Though I believe the idea of providing statutory recognition for the consortium has merit, I do have some concerns about the requirement for agencies to transfer to the National Science Foundation an amount equal to 0.005 percent of their laboratory research budgets for operation of the consortium. I would like to receive more input from the research community, affected agencies and others before making a final decision on whether to support this particular provision.

Mr. President, let me thank and congratulate Senator GORTON for all the work he and his staff have put into this bill. I look forward to working with him in seeing to it that these important new authorities for agencies and their labs are enacted into law.

Mr. HOLLINGS. Mr. President, I am pleased to cosponsor this important legislation. By allowing Government-operated laboratories to enter into cooperative agreements with industry, and by strengthening the organization that transfer Federal expertise to the business community and the States, this bill will improve the contribution that Federal labs make to the Nation's industrial modernization, economic development, and overall competitiveness. And it will do without spending any new Federal dollars.

The Federal Government's laboratories are a tremendous national resource, employing one-sixth of the Nation's scientists and engineers. Of course, their primary function is to perform research in support of essential Federal missions, from defense and energy to health, food, and natural resources. At the same time, however, hearings and research by the Commerce Committee's Science Subcommittee show that these labs also have unique facilities, expertise, and inventions which could help the private sector, if they only had legal authority to cooperate with private industry, universities, and the States. For example, we now have over 25,000 federally funded inventions, many of which could lead to valuable commercial products if only Government labs and industry were allowed to work together more closely. Moreover, Federal scientists and engineers could provide advice and technical assistance to State and local governments on a wide range of issues.

A few Federal laboratories have the necessary legal authority now, particularly several of the Energy Department facilities run by contractors. Already we are seeing beneficial results. For example, scientists at Los Alamos National Laboratory have invented a process that identifies viruses and bacteria in minutes, rather than the days of weeks now needed. A private company is now working with Los Alamos to develop the product commercially. In addition, the National Bureau of Standards and Oak Ridge National Laboratory are working with the steel industry to modernize steelmaking. The bill that we introduce today would extend this legal authority to over 300 Federal laboratories operated by the Government itself rather than by contractors.

The legislation would allow agencies with Government-operated laboratories to allow these labs to enter into cooperative agreements with corporations, universities, and State and local governments—at the partner's expense—for the purpose of developing new technologies, products, and companies. The labs could waive patent rights to resulting invention, if that seemed the best way to encourage commercialization of a product, or they could negotiate royalty requirements and reserve such rights as they deem appropriate.

In addition, the new bill also would strengthen the laboratory organizations that provide information and assistance to industry and to State and local officials. These organizations include the small Federal Laboratory Consortium, the one nationwide group that links laboratory technical information specialists to each other.

I want to put to rest one particular concern about cooperative agreements. Some people fear that allowing Government labs to work with private industry may lead the labs to neglect their fundamental Government responsibilities. Believe me, if I thought for a moment that this bill would compromise Federal programs, I would oppose it. But this bill provides the proper safeguards. No agency is required to work with industry—the bill simply permits agency heads, at their discretion, to allow some cooperation with industry. The agency head determines the level of cooperation, the kinds of projects, and what royalties to collect. At the same time, Federal labs would continue to perform their Government responsibilities.

Mr. President, this bill will not magically solve the Nation's economic problems or instantly rejuvenate all industries. It is not a panacea. Many other steps can and should be taken to help American industry regain its technological lead and international competitiveness. This legislation, however, is a concrete and valuable step toward better utilization of the tremendous technology and expertise present in our national laboratories. It will not cost the taxpayers a dime, and it may actually make some money for the Government.

This is an important, innovative bill. I am pleased to join colleagues from both parties in sponsoring it, and I look forward to working with my other Senate colleagues to enact it.

ADDITIONAL COSPONSORS

S. 8

At the request of Mr. CRANSTON, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of S. 8, a bill to grant a Federal charter to the Vietnam Veterans of America, Inc.

S. 104

At the request of Mr. THURMOND, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 104, a bill to amend chapter 44, title 18, United States Code, to regulate the manufacture and importation of armor piercing bullets.

S. 361

At the request of Mr. MOYNIHAN, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 361, a bill to amend the Internal Revenue Code of 1954 to make permanent the deduction for charitable contributions by nonitemizers.

S. 670

At the request of Mr. PELL, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor 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. 1250

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 1250, a bill to amend the Internal Revenue Code of 1954 to extend the targeted jobs tax credit for 5 years, and for other purposes.

S. 1747

At the request of Mr. ROTH, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1747, a bill to amend the Foreign Assistance Act of 1961 to protect tropical forests in developing countries.

S. 1748

At the request of Mr. ROTH, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 1748, a bill to amend the Foreign Assistance Act of 1961 to protect biological diversity in developing countries.

SENATE JOINT RESOLUTION 234

At the request of Mr. WILSON, the names of the Senator from Nevada [Mr. LAXALT], the Senator from New York [Mr. D'AMATO], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Illinois [Mr. DIXON], the Senator from North Dakota [Mr. ANDREWS], the Senator from Oklahoma [Mr. NICKLES], the Senator from Mississippi [Mr. COCHRAN], and the Senator from North Dakota [Mr. BURDICK], were added as cosponsors of Senate Joint Resolution 234, a joint resolution to designate the week of February 9, 1986 through February 15, 1986 as "National Burn Awareness Week".

SENATE JOINT RESOLUTION 235

At the request of Mr. DANFORTH, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Joint Resolution 235, a joint resolution to designate the week of January 26, 1986, to February 1, 1986, as "Truck and Bus Safety Week".

SENATE JOINT RESOLUTION 236

At the request of Mr. GORTON, the names of the Senator from Illinois [Mr. DIXON], the Senator from South Dakota [Mr. ABDNOR], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of Senate Joint Resolution 236, a joint resolution to authorize and request the President to issue a proclamation designating April 20 through April 26, 1986, as "National Organ and Tissue Donor Awareness Week".

SENATE CONCURRENT RESOLUTION 69

At the request of Mr. DANFORTH, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 69, a concurrent resolution to recognize the National Camp Fire Organization for 75 years of service.

SENATE RESOLUTION 223

At the request of Mr. MURKOWSKI, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Resolution 223, a resolution to express the sense of the Senate regarding automobile carriers.

SENATE CONCURRENT RESOLUTION 92—AFFIRMING THE POLICY OF METRIC CONVERSION BENEFITING THE UNITED STATES

Mr. PELL (for himself and Mr. INOUYE) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. CON. RES. 92

Whereas a decade ago the Congress passed the Metric Conversion act of 1975 (15 U.S.C. 205a et seq.);

Whereas it is the policy of the United States Government to coordinate and plan the increasing use of the metric system;

Whereas significant achievements have been made in industry toward the use of the metric system and Federal agencies have removed barriers which support and accommodate metrication to trade, travel, and communication;

Whereas the principal benefit of accelerating the metric changeover is an improvement in the ability of the Nation to export and compete more favorably in growing world markets;

Whereas United States trade deficits could be substantially reduced by the introduction of metric available products to our trading partners;

Whereas corporate policies toward manufacturing and international trade in the use of metrics can expand productivity and increase small business opportunity;

Whereas the metric changeover should continue to take place in the United States when it is in the best interests of the consumer and the producer; and

Whereas the Federal Government, by law or regulation should not discourage or prohibit the voluntary process of metric transition: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress finds that—

(1) the increasing use of the metric system has benefited the Nation over the last decade;

(2) conversion to the metric system shall assist in reduction of the trade deficits by making United States products more marketable in international trade, thereby preserving jobs, and bringing growth opportunities to the United States economy; and

(3) the Federal Government should encourage the transition toward metrication and supports the national policy set forth in the Metric Conversion Act of 1975 (15 U.S.C. 205a).

● Mr. PELL. Mr. President, I am very pleased indeed to have another opportunity to support the concept of conversion to the metric system. The concurrent resolution that I am submitting today, along with Senator INOUYE, affirms the national policy of metric conversion which has benefited our Nation. The concurrent resolution resolves that the Federal Government should further encourage the transition toward metrication and supports the national policy set forth in the Metric Conversion Act of 1975.

Mr. President, the ability of the United States to compete in world trade is becoming more important and more difficult each day as our competitors get stronger. Since about 95 percent of the world uses the metric system of measure, the absence of metric in U.S. goods and services can directly reduce our ability to be successful in world markets.

Certainly, metric is only one part of the answer to our balance-of-trade problems. I believe, however, that it is an important part of those problems. We may not increase our sales because our products are metric, but we could surely lose sales if they are not.

All markets are rapidly becoming world markets, and all of the important trading partners of the United States have made the transition to metric. The following nations have decided to change since World War II: Australia, Canada, China, Greece, India, Israel, Japan, Nigeria, Saudi Arabia, and the United Kingdom.

Moreover, the European Economic Community has set 1989 as the date after which imported products must be labeled in metric units.

This point becomes clearer if we take a historical perspective. An article appearing in an educational journal noted that metric advocacy has been with us almost since the birth of our Nation. In 1979, then Secretary of State Thomas Jefferson proposed a decimal-based measurement system as one way of achieving national uniformity of weights and measures. In

1821, a study by John Quincy Adams acknowledged the distinct advantages of the metric system, but because our major trading partner, Great Britain, did not use it, the study concluded that it was not practical then for the United States to adopt the metric system.

In 1866, the Congress authorized use of the metric system and supplied each State with a set of metric weights and measures. In 1875, the United States reinforced its continuing interest by becoming one of the original signatory nations to the "Treaty of the Meter." In 1893, we began to define the foot, pound, and inch in terms of the metric system.

When Congress passed the Metric Conversion Act of 1975, it declared "a national policy of coordinating the increasing use of the metric system in the U.S. and * * * the voluntary conversion to the metric system." Today, the reasons that formerly justified rejection of metric are exactly reversed. Our trading partners are now predominately metric, including Great Britain.

Mr. President, our concurrent resolution encourages voluntary cooperation between public and private international organizations concerned with the development of engineering standards. I believe that such cooperation can only result in furthering our increasingly vital worldwide trade interests.●

AMENDMENTS SUBMITTED

FURTHER CONTINUING APPROPRIATIONS, 1986

GLENN (AND OTHERS) AMENDMENT NO. 1347

Mr. GLENN (for himself, Mr. COHEN, and Mr. MOYNIHAN) proposed an amendment to the joint resolution (H.R. Res. 465) making further continuing appropriations for the fiscal year 1986, and for other purposes; as follows:

At the end of the joint resolution, add the following:

SEC. . None of the funds appropriated or otherwise made available by this joint resolution or any other provision of law may be available for the issuance of any license for export to, or for any approval for the transfer or retransfer to, the People's Republic of China of any nuclear equipment, materials, or technology subject to the Agreement for Cooperation between The Government of the United States of America and the Government of the People's Republic of China concerning Peaceful Uses of Nuclear Energy, done on July 23, 1985, until the President certifies to the Congress that reciprocal arrangements on the verification of the peaceful uses of such equipment, materials, and technology will include standards and methods of materials accounting and inspection essentially equivalent to those normally applied by the International Atomic Energy Agency.

STEVENS AMENDMENT NO. 1348

Mr. STEVENS proposed an amendment to the joint resolution H.J. Res. 465, supra; as follows:

On page 3, strike lines 20 through 24, and insert in lieu thereof the following:

"(d) Such amounts as may be necessary for programs, projects, or activities provided for in the District of Columbia Appropriations Act, 1986 (H.R. 3067), to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99-419), as filed in the House of Representatives on December 5, 1985, as if enacted into law."

DIXON AMENDMENT NO. 1349

(Ordered to lie on the table)

Mr. DIXON submitted an amendment, which was subsequently modified, intended to be proposed by him to the joint resolution H.J. Res. 465, supra; as follows:

On page 10, line 19, after "Haiti" insert a colon and the following: "*Provided further,* That not more than $1,711,286,666 may be made available to carry out Chapter 4 of part II of the Foreign Assistance Act of 1961 (other than any project, activity, or other assistance for Israel or Egypt)."

KENNEDY (AND BURDICK) AMENDMENT NO. 1350

Mr. KENNEDY (for himself and Mr. BURDICK) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the resolution add the following new section:

MEDICARE HOSPITAL DEDUCTIBLE INCREASE DELAY; TEMPORARY INCREASE IN CIGARETTE TAX

SEC. —. (a) HOSPITAL DEDUCTIBLE INCREASE DELAY.—Notwithstanding section 1813 of the Social Security Act, the increase in the inpatient hospital deductible which would otherwise become effective on January 1, 1986, pursuant to such section shall not become effective until May 15, 1986. The inpatient hospital deductible in effect for 1985 shall remain in effect until May 14, 1986.

(b) CIGARETTE TAX INCREASE.—

(1) RATE OF TAX.—Section 5701(b) of the Internal Revenue Code of 1954 (relating to rate of tax on cigarettes) is amended—

(A) by striking out "$8 per thousand" in paragraph (1) and inserting in lieu thereof "$8.50 per thousand, or $8 per thousand after September 30, 1988"; and

(B) by striking out "$16.80 per thousand" in paragraph (2) and inserting in lieu thereof "$17.53 per thousand, or $16.80 per thousand after September 30, 1988".

(2) FLOOR STOCKS.—

(A) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before December 14, 1985, and held on such date for sale by any person, there shall be imposed the following taxes:

(i) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, 50 cents per thousand;

(ii) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, 73 cents per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(B) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding cigarettes on December 14, 1985, to which any tax imposed by subparagraph (A) applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by subparagraph (A) shall be treated as a tax imposed under section 5701 of the Internal Revenue Code of 1954 and shall be due and payable on January 2, 1986, in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on December 14, 1985.

(C) CIGARETTE.—For purposes of this paragraph, the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1954.

(D) EXCEPTION FOR RETAILERS.—The taxes imposed by subparagraph (A) shall not apply to cigarettes in retail stocks held on December 14, 1985, at the place where intended to be sold at retail.

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply with respect to cigarettes removed after December 13, 1985.

(B) CONFORMING AMENDMENT.—Subsection (c) of section 283 of the Tax Equity and Fiscal Responsibility Act of 1982 is amended by striking out "and before November 15, 1985".

(c) TRANSFER TO MEDICARE TRUST FUND.—Section 1817(a) of the Social Security Act is amended—

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

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

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

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

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

(6) by inserting after paragraph (2) the following new paragraph:

"(3) 5.88 percent of the taxes imposed under section 5701(b) of the Internal Revenue Code of 1954 on cigarettes removed after December 13, 1985, and before October 1, 1988, and 100 percent of the taxes imposed under such section on floor stocks held on December 14, 1985.".

GORTON AMENDMENT NO. 1351

Mr. GORTON proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the bill add the following section:

"SEC. . The Department of the Navy is authorized, within existing appropriations, to expend such sums as are necessary to effectuate a settlement with the State of Washington of back tax liabilities arising out of federal construction projects in Washington State. Such settlement may be negotiated directly between the Department of the Navy and the State of Washington, notwithstanding the fact that the liability of the Department of the Navy may be derivative from persons contracting with the Department.".

HEINZ AMENDMENT NO. 1352

Mr. HEINZ proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place insert the following:

"SEC. . Notwithstanding section 1813(b) of the Social Security Act, the inpatient hospital deductible for purposes of section 1813(a) of such Act for calendar year 1986 shall be $476.

COHEN (AND LEVIN) AMENDMENT NO. 1353

Mr. COHEN (for himself and Mr. LEVIN) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the resolution insert the following:

SEC. . (a) This section may be cited as the "Ethics in Government Act Amendments of 1985".

(b) Section 207 of the Ethics in Government Act of 1978 is amended—

(1) by striking out the heading for such section and inserting in lieu thereof the following:

"CONFIDENTIAL REPORTS AND OTHER ADDITIONAL REQUIREMENTS";

(2) by striking out the first sentence in subsection (a) and inserting in lieu thereof the following: "(1) The President may require officers and employees in the executive branch (including the United States Postal Service, the Postal Rate Commission, members of the uniformed services, and special Government employees as defined in section 202 of title 18, United States Code) to file a confidential financial disclosure report, in such form as the President may prescribe. The information required to be reported under this subsection by the officers and employees of any department or agency shall be set forth in regulations prescribed by the President, and may be less extensive than otherwise required by this title, or more extensive when determined by the President to be necessary and appropriate in light of sections 202 through 209 of title 18, United States Code, regulations promulgated thereunder, or the authorized activities of any such department or agency. Any individual required to file a report pursuant to section 201 shall not be required to file a confidential report pursuant to this subsection, except with respect to information which is more extensive than information otherwise required by this title."; and

(3) by adding at the end of subsection (a) the following new paragraph:

"(2) Any information required to be provided by an individual under this subsection shall be confidential and shall not be disclosed to the public.".

(c) The amendments made by this section shall be effective 90 days after the date of enactment of this section.

PRYOR (AND OTHERS) AMENDMENT NO. 1354

Mr. PRYOR (for himself, Mr. LEAHY, Mr. BINGAMAN, Mr. MELCHER, and Mr. DIXON) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 10, line 19, before the period insert a colon and the following: *"Provided, further,* That not more than $764,648,000 may be available under the heading 'Military Assistance'."

DIXON AMENDMENT NO. 1355

Mr. DIXON proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 10, line 19, after "Haiti" insert a colon and the following:

Provided further, That notwithstanding any other provision of this subsection, that not more than $3,745,000,000 may be made available for the "Economic Support Fund."

MURKOWSKI AMENDMENT NO. 1356

Mr. MURKOWSKI proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the bill, insert the following:

The foreign debt burdens of many third world nations have contributed to their economic decline and inability to engage in a significant economic recovery;

The United States foreign military assistance loan programs, which have had very high interest rates in past years, have contributed to the security of our friends and allies, but also have played a contributing role in adding to the debt burdens of many of our friends and allies;

United States foreign aid has, among its major objectives, the enhancement of the military and economic security of our friends and allies and our own security;

A foreign assistance program which adds significantly to the debt burdens of our friends and allies by forcing the weaker of those nations to use funds which could be used for development for repayment of loans impairs their economic development unnecessarily and is not in either their or our interest;

The past few years have seen several positive legislative steps taken to alleviate the FMS loan-related debt burdens of our friends and allies by reducing interest rates, stretching out the repayment period of these loans, and by increasing the level of MAP grants and forgiven FMS credits;

These steps have helped to ease these problems in the short term, but the long-term debt servicing problems of our friends and allies remain;

It would be in the best interests of our friends and allies to alleviate their debt burdens brought about by past loans and to bring about a more streamlined and straightforward approach to the programs in this area;

Such streamlined, straightforward programs would make it easier to develop country programs and would ease current pressures on the United States to grant to aid recipients the most favorable terms on their military loan programs: Now therefore,

(1) it is the sense of the Congress that a more simplified, streamlined, straightforward foreign military assistance program is in the national interest and in the interest of the military and economic security of our friends and allies throughout the world;

(2) that greater concessionality to match economic need as appropriate should be incorporated into future military assistance programs;

(3) that FMS loan programs extending the repayment period beyond the useful life of the items to be purchased could tend to increase the long-term debt burdens of our friends and allies;

(4) that the FMS concessional loan program contains a significant grant element to the recipient nation and that the Congress should actively consider replacing this program with a more straightforward approach;

(5) the President is urged to propose, in the next formal Congressional Presentation for Security Assistance Programs, reforms and refinements in the foreign military assistance programs along these lines for consideration by the appropriate committees of the Congress.

HUMPHREY (AND KASTEN) AMENDMENT NO. 1357

Mr. HUMPHREY (for himself and Mr. KASTEN) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, add the following:

SEC. —. (a) Notwithstanding any other provision of law, the President is authorized—

(1) to deny nondiscriminatory (most-favored-nation) trade treatment to the products of Afghanistan and thereby cause such products to be subject to the rate of duty set forth in column number 2 of the Tariff Schedules of the United States, and

(2) to deny credit, credit guarantees, and investment guarantees to, or for the benefit of, Afghanistan under any Federal program.

(b) If the President has not denied nondiscriminatory trade treatment to the products of Afghanistan before the date that is 45 days after the date of enactment of this Act, the President shall submit to the Congress on such date a report which states the reasons why the President has not denied such treatment.

(c) Notwithstanding any other provision of law, if the President takes any action under subsection (a), the President is authorized to—

(1) restore nondiscriminatory trade treatment to the products of Afghanistan, and

(2) extend credit, credit guarantees, and investment guarantees to, or for the benefit of, Afghanistan under any Federal program, only if the President provides written notice of such restoration or extension to the Congress at least 30 days prior to the date on which such restoration or extension takes effect.

(d) For purposes of this Act, the term "product of Afghanistan" means any article which is grown, produced, or manufactured (in whole or in part) in Afghanistan.

McCLURE (AND OTHERS) AMENDMENT NO. 1358

Mr. McCLURE (for himself, Mr. LUGAR, and Mr. QUAYLE) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At an appropriate place in the bill, insert the following:

Of the funds available from the Energy Security Reserve to the Secretary of Energy for Alcohol fuel loan guarantees under Public Law 96-304, as amended by Public Laws 96-514, 97-12, and 97-394, the Secretary shall provide a loan for odor abatement at an ethanol producing facility that has received financial assistance under title II of Public Law 96-294 and that was in operation on November 1, 1985:

Provided, that—

(1) such loan shall not exceed 90 percent of the net cost of the odor abatement project and in no case shall the amount of such loan exceed $3 million,

(2) the Secretary shall not provide such loan until the Secretary has received satisfactory assurances that a nonfederal share in the amount of 10% of the net cost of the odor abatement project is available,

(3) payment of principal under the loan shall not be due until the repayment in full of permanent financing guaranteed by the Department of Energy for the construction of such ethanol producing facility,

(4) interest shall accrue immediately upon receipt of the loan and payment of interest shall be made at regular intervals established by the Secretary and at such rate as determined by the Secretary but not to exceed the current average rate of outstanding marketable obligations of the United States with comparable maturities,

(5) the Secretary shall not make such loan until the Secretary has received satisfactory assurances that any expenses of operating equipment installed using funds made available under this loan shall be paid by the New Energy Corporation of Indiana,

(6) principal and interest payments made under this loan shall be repaid into the Alcohol Fuels Loan Guarantee Reserve, and

(7) the Secretary shall establish such other terms and conditions as the Secretary considers appropriate.

McCLURE AMENDMENT NO. 1359

Mr. McCLURE proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

Notwithstanding any other provisions of this Joint Resolution, strike the following beginning on line 11, page 32 through line 13, page 32 of H.R. 3011;

", at an interest rate of 4 per centum, to be repaid within a period of twelve years"

BYRD (AND TRIBLE) AMENDMENT NO. 1360

Mr. BYRD (for himself and Mr. TRIBLE) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, there is appropriated an additional $3,000,000 to remain available until expended, for the National Oceanic and Atmospheric Administration for programs, projects, and activities for the Integrated Flood Observing and Warning System (IFLOWS).

ABDNOR (AND DeCONCINI) AMENDMENT NO. 1361

Mr. ABDNOR (for himself and Mr. DeCONCINI) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 49, after line 9 add the following new section:

SEC. . None of the funds appropriated by this Act or any other Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with 27 U.S.C., Section 205 (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

GRASSLEY (AND TRIBLE) AMENDMENT NO. 1362

Mr. GRASSLEY (for himself and Mr. TRIBLE) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the joint resolution insert the following:

SEC. . (a) This section may be cited as the "Conservation Service Reform Act of 1985".

(b)(1) Title VII of the National Energy Conservation Policy Act (relating to energy conservation for commercial buildings and multifamily dwellings) is hereby repealed.

(2) The table of contents for such Act is amended by striking out the items relating to title VII.

(3) Notwithstanding paragraph (1) any State energy conservation plan for commercial buildings and multifamily dwellings approved under section 721 of the National Energy Conservation Policy Act prior to August 1, 1984, may with respect to regulated utilities, continue in effect until one year after the date of enactment of this subsection if such plan meets the requirements of section 722 of such Act as in effect on August 1, 1984.

(c)(1) Sections 215(a), 215(d), and 217(a)(1) of the National Energy Conservation Policy Act (relating to utility programs and home heating supplier programs) are amended by striking out "January 1, 1985" each place it appears and inserting in lieu thereof "January 1, 1988".

(2) The Comptroller General shall prepare and transmit to Congress before June 30, 1986 a report evaluating the utility and home heating supplier programs of the Residential Conservation Service implemented under part 1 of title II of the National Energy Conservation Policy Act. The Secretary of Energy shall conduct a survey in consultation with the Comptroller General to collect the information the Comptroller General determines is necessary for the preparation of such report. The report shall examine and assess, for the programs under this part—

(A) the potential for achievable energy savings through implementation of residential energy conservation measures in residential dwellings in the United States and the importance of the Residential Conservation Service in achieving these savings;

(B) Residential Conservation Service Program costs from a representative sample of States, taking into account costs to the taxpayer and ratepayers of affected utilities;

(C) Residential Conservation Service Program benefits from a representative sample of States, taking into account the value of energy conservation and the value of deferral of investment in new capacity to provide energy;

(D) efforts of utilities to encourage the implementation of residential energy efficiency measures by their customers and the relationship between these efforts and the observed response rate under Residential Conservation Service Programs;

(E) measured energy savings achieved in residential dwellings in which measures are installed under such programs;

(F) to the extent to which utilities have adopted programs voluntarily or under State law that offer more promise in encouraging energy efficiency than has been the case under the Residential Conservation Service;

(G) to the extent to which modifications in the regulations implementing the Residential Conservation Service could improve the cost effectiveness of the program;

(H) legislative changes that are necessary to improve the cost effectiveness of the program;

(I) the extent of unfair, deceptive or anticompetitive acts or practices affecting the commerce that relate to the implementation of such residential energy conservation programs, and the adequacy of procedures which are in effect to prevent such unfair, deceptive or anticompetitive acts or practices; and

(J) such other matters as seem appropriate in order to assist Congress in deciding the future of the Residential Conservation Service.

(3) The provisions of part 1 of title II of the National Energy Conservation Policy Act shall expire on January 1, 1988, but such expiration shall not affect any action or pending proceeding not finally determined on such date of expiration nor any action proceeding based upon such act committed prior to such date of expiration.

(d) Section 218(a) of the National Energy Conservation Policy Act is amended by striking the last sentence thereof and inserting "Such temporary exemption may be granted or renewed until such date as determined by the Secretary.".

(e)(1) Part 1 of title II of the National Energy Conservation Policy Act (42 U.S.C. 8211 et seq.) is amended by adding at the end thereof the following:

"SEC. 226. WAIVER FOR REGULATED AND NONREGULATED UTILITIES.

"(a) WAIVER.—Any utility subject to this part may, upon request, receive a waiver from the Secretary from any provision of this part or from any provision of a State residential energy conservation plan under this part if the utility shows in appropriate State proceedings and the appropriate State officials find that—

"(1) the existing and planned residential energy conservation programs that will be implemented by the utility if a waiver from such provision is approved will result in savings in petroleum, natural gas or electric energy consumed in residential buildings served by the utility that are equal to or greater than the savings that would be achieved if the utility were subject to the provision; and

"(2) adequate procedures are in effect that prevent unfair, deceptive or anticompetitive acts or practices affecting commerce that relate to the implementation of such residential energy conservation programs, including provisions to assure that any person who alleges any injury resulting from unfair, deceptive or anticompetitive acts or practices in connection with such programs shall be entitled to redress under such procedures as may be established by the Governor in the State in which the utility provides utility service.

"(b) DEFINITION.—For purposes of this section the term 'residential energy conservation program' means any program carried out by a utility that has as its purpose—

"(1) increasing the efficiency with which petroleum, natural gas or electric energy is consumed in residential buildings served by such utility; or

"(2) utilizing solar or other forms of renewable energy in residential buildings served by such utility.

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"(c) APPROVAL.—The Secretary shall approve a request of a utility for a waiver under subsection (a) if the Secretary determines that—

"(1) opportunity for a hearing on the request for a waiver has been provided in the State in which the utility provides utility service; and

"(2) in the case of a regulated utility, the Governor of the State in which the utility provides utility service and the State regulatory authority that has ratemaking authority with respect to such utility both—

"(A) find that the showings under subsection (a) (1) and (2) are sufficient; and

"(B) support of the request by the utility for the waiver; or

"(3) in the case of a nonregulated utility subject to a State residential energy conservation plan under section 212(c)(2), the Governor of the State in which the utility provides utility service—

"(A) finds that the showings under subsections (a) (1) and (2) are sufficient; and

"(B) supports the request by the utility for the waiver.

"(d) ANNUAL REVIEW AND REVOCATION OF WAIVER.—(1) The provisions of this subsection do not apply to a nonregulated utility unless such utility is subject to a State residential energy conservation plan under section 212(c)(2).

"(2) Any utility that receives a waiver under this section shall provide the Governor of the State in which that utility provides utility service with an annual report describing the performance of its residential energy conservation programs in relation to the showings of such utility under subsections (a) (1) and (2).

"(3) The Secretary shall revoke any waiver received by a utility under this section upon a request under this subsection by the Governor of the State in which the utility provides utility service. Such a request shall be made upon a finding—

"(A) in the case of a regulated utility, by such Governor with the concurrence of the State regulatory authority that has ratemaking authority with respect to such utility; or

"(B) in the case of a nonregulated utility subject to a State residential energy conservation plan under section 212(c)(2), by such Governor, that the savings described in subsection (a)(1) on an annual basis are less than the savings in the year prior to the approval of the waiver or that the procedures referred to in subsection (a)(2) are no longer adequate.

"(4) A request under paragraph (3) with respect to any utility may be submitted to the Secretary by a Governor only after review and opportunity for a hearing on the performance of the residential energy conservation programs of such utility. In order to facilitate such review and hearing, the utility shall provide to the Governor such information as the Governor requests about such residential energy conservation programs.".

(2) The table of contents for the National Energy Conservation Policy Act is amended by adding at the end of the table of contents for part 1 of title II the following:

"Sec. 226. Waiver for regulated and nonregulated utilities.".

(f) Subsection 220(b) of title II of the National Energy Conservation Policy Act (42 U.S.C. 8211 et seq.) is amended by inserting after "Acts—", "(1)", and by inserting after the words "acts or practices.", the following new paragraph:

"(2) Nothing in this part shall be construed to—

"(A) bar any person from taking an action with respect to any anticompetitive act or practice related to activities conducted under any program established under this part, including activities conducted under subsection 216 (b), (c), (d), or (e); or

"(B) convey to any person immunity from civil or criminal liability, create defenses to actions under antitrust laws, or modify or abridge any private right of action under such laws.".

(g)(1) Part 3 of title V of the National Energy Conservation Policy Act (Public Law 95-619) is amended by adding at the end thereof the following new section:

"SEC. 552. ENERGY SAVINGS CONTRACTS.

"(a) ENERGY SAVINGS CONTRACTS.—Notwithstanding any other law, the head of a Federal agency may contract for energy savings for periods of not more than 25 years and shall provide in these contract that the contractor shall incur the initial cost, or a portion of the cost, of implementing energy savings measured in exchange for a share of any energy savings resulting from such implementation. As used in this section 'energy savings', means a reduction in the energy consumption or in the energy-related costs of an existing building or community of buildings caused by lease or purchase of equipment, supplies, or improvements; altered operation and maintenance; technical services; or other means or the increased efficient use of existing energy sources by cogeneration, heat recovery, or other means.

"(b) COSTS OF CONTRACTS.—The costs of contracts authorized under this section for any year may be paid from monies made available to the agency for utilities costs and related operations and maintenance costs.

"(c) CONTRACTS NOT CONTINUED.—In the event funds are not made available for the continuance of a contract authorized by this section for a subsequent fiscal year, the contract shall be cancelled or terminated and the costs of cancellation or termination may be paid from—

"(1) funds appropriated for the performance of the contract concerned;

"(2) appropriated funds otherwise available for the payment of these costs; or

"(3) funds appropriated for these costs.

"(d) SECRETARY'S ANNUAL REPORT.—The Secretary's annual report under section 550 and the information each Federal agency is required to furnish to the Secretary under section 550 shall include—

"(1) a description of the progress made by each Federal agency in conforming its regulations to this section to permit contracts for energy savings, and

"(2) a description of each Federal agency's progress in the use of such contracts.".

(2) Section 101(b) of the National Energy Conservation Policy Act (the table of contents) is amended by adding at the end of the table of sections for part 3 of title V the following new item:

"Sec. 552. Energy savings contracts.".

WILSON (AND CHAFEE) AMENDMENT NO. 1363

Mr. McCLURE (for Mr. WILSON, for himself and Mr. CHAFEE) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place insert in House Joint Resolution 465:

"Appropriations and funds available to the United States Fish and Wildlife Service shall be available for, and the Secretary shall immediately resume preparation of, all environmental assessments and statements that are necessary prerequisites to the translocation of a portion of the existing population of Southern sea otters (Enhydra lutris nereis) to one or more locations within its historic range in accordance with the recovery plan for such species. In preparing such assessments and statements the Secretary shall consider Section 10(j) of the Endangered Species Act (16 U.S.C. 1539(j)) as well as pending legislation that would amend such Act.".

EVANS (AND GORTON) AMENDMENT NO. 1364

Mr. EVANS (for himself and Mr. GORTON) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the resolution, insert the following new section:

"SEC. . Notwithstanding any other provision of this resolution, the number "$15,033,000" on page 9, line 12 of H.R. 3011 as reported by the Senate Committee on Appropriations on September 24, 1985 shall be increased to $16,733,000, of which $1,700,000 shall be available until expended to commence construction of fish hatchery facilities on the Nisqually River, Washington.".

McCLURE (AND OTHERS) AMENDMENT NO. 1365

Mr. McCLURE (for himself, Mr. KERRY, Mr. KENNEDY, Mr. RUDMAN, Mr. METZENBAUM, and Mr. ROTH) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution insert the following new section:

SEC. . The educational center to be located at the Boott Mill Complex, Building No. 6, in the Lowell National Historical Park, Massachusetts, is hereby designated and shall be known as the "Paul E. Tsongas Industrial History Center".

BUMPERS AMENDMENT NO. 1366

Mr. BUMPERS proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

Before the period on page 4, line 12, insert the following: "; *Provided further,* That $150,000 shall be available to the National Park Service solely for the restoration and renovation of the Lonoke Depot in Lonoke, Arkansas."

WALLOP AMENDMENT NO. 1367

Mr. WALLOP proposed an amendment to the joint resolution (H.J. Res. 465); supra; as follows:

At the appropriate place, add the following:

Notwithstanding anything in this Act to the contrary, no funds may be expended for voluntary payments to the United Nations or any affiliate or subsidiary thereof which are in excess of the amount $15,000,000.

ZORINSKY AMENDMENT NO. 1368

Mr. ZORINSKY proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the joint resolution, insert the following new section:

SEC. . (a) of the funds appropriated in this joint resolution for procurement for the Army National Guard, the sum of $27,000,000 is transferred to and merged with funds appropriated in this joint resolution for operation and maintenance for the Army National Guard as follows:

(1) $7,000,000 shall be available only for the repair and restoration of Army National Guard armories.

(2) $20,000,000 shall be available only for Army National Guard armory operating costs attributable to activities of full-time Federal personnel of the National Guard and the housing of equipment.

(b) Additional funds made available for operation and maintenance under subsection (a) shall be allocated among the States for purposes described in clauses (1) and (2) of subsection (a) as prescribed by the Chief of the National Guard Bureau.

(c) None of the additional funds made available for operation and maintenance under subsection (a) may be allocated to any State that reduces the amount of State funds for operation and maintenance of the Army National Guard for fiscal year 1986 below the amount made available by such State for such purpose for fiscal year 1985.

METZENBAUM AMENDMENT NO. 1369

Mr. METZENBAUM proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, the amount "86,220,000" on page 13, line 13, of H.R. 3011 as reported by the Senate Committee on Appropriations on September 24, 1985, shall read as follows: "87,070,000", and of which not less than $850,000 shall be expended for the William Howard Taft Home.

LUGAR AMENDMENT NO. 1370

Mr. LUGAR proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 51, after line 14, add the following new title:

TITLE II—CENTRAL AMERICAN COUNTERTERRORISM AND LAW ENFORCEMENT PROFESSIONALIZATION ACT OF 1985

SHORT TITLE

SEC. 201. This title may be cited as the "Central American Counterterrorism and Law Enforcement Professionalization Act of 1985".

SPECIAL ASSISTANCE TO COMBAT TERRORISM IN CENTRAL AMERICAN COUNTRIES

SEC. 202. Chapter 8 of part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 577. Special Assistance to Combat Terrorism in Central American Countries.—(a)(1) Of the funds authorized to be appropriated for the fiscal year 1986 by section 575, not to exceed $21,000,000 shall be available only to combat terrorism in Central American countries.

"(2) Except as otherwise provided in this section, for the fiscal year 1986, Costa Rica, El Salvador, Guatemala, and Honduras are authorized to receive assistance under this section.

"(b) If the President determines that a country receiving assistance under this section is using such assistance to engage in acts of torture, the President shall terminate such assistance to such country.

"(c) The provisions of paragraph (2) of section 573(d), authorizing United States Government personnel to advise on antiterrorism matters outside the United States, shall apply to assistance provided under this section, except that the limitation of thirty consecutive calendar days shall be extended to ninety consecutive calendar days for purposes of this subsection.

"(d)(1) Except as otherwise provided in this subsection, the provisions of paragraphs (1), (3), and (5) of section 573(d) shall not apply to assistance furnished under this section.

"(2) To the maximum extent practicable, training services provided under this section shall be conducted in the United States, and no funds may be obligated for any such training service to be performed outside the United States unless the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives are notified fifteen days in advance of such obligation. Each notification of any such proposed obligation shall specify—

"(A) the nature and purpose of such proposed obligation; and

"(B) the reasons why it is not feasible or desirable to conduct such training services in the United States.

"(3) None of the funds made available for assistance under this section shall be provided by or through any intelligence agency of the United States, and no personnel of any such intelligence agency may participate in the provision of assistance under this section except to the extent the participation of such personnel is directly related to antiterrorism training provided under this section and conducted in the United States.".

RESTRICTIONS ON ASSISTANCE

SEC. 203. Section 577 of the Foreign Assistance Act of 1961, as added by section 202, is amended by adding at the end thereof the following new subsections:

"(e)(1) No assistance under this section may be made available for any country until the President prepares and transmits to the Speaker of the House of Representatives and to the chairman of the Committee on Foreign Relations of the Senate a report stating that—

"(A) the security forces of such country are not engaged in systematic human rights violations, and the leadership of these forces are committed to eradicating all human rights violations within their respective forces;

"(B) the government of such country is making substantial progress in creating law enforcement and judicial systems which promote and encourage the investigation and prosecution of criminal acts:

"(C) any assistance, including training, will achieve the purpose of professionalizing independent law enforcement agencies; and

"(D) such country has submitted a formal written request to the United States for such assistance.

"(2) For purposes of paragraph (1), the term "human rights violations" includes the use of torture, incommunicado detention, of persons solely for the nonviolent expression of their political views, and prolonged detention without trial.

"(3) No funds under this section may be obligated or expended for any country on or after July 1, 1986, unless the President on June 30, 1986, prepares and transmits an additional report as described in paragraph (1).

"(4) Not later than March 31, June 30, and September 30, 1986, the Comptroller General of the United States shall 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 which—

"(A) describes the progress made by each country receiving assistance under this section toward achieving—

"(i) the elimination of human rights violations by the security forces of such country and a commitment by the leadership of these forces to an eradication of all human rights violations within their respective forces,

"(ii) the creation by the government of such country of law enforcement and judicial systems which promote and encourage the investgation and prosecution of criminal acts, and

"(iii) the professionalization of independent law enforcement agencies, and

"(B) include a determination as to whether any country receiving assistance under this section has engaged in acts of torture, abuse, or other physical, or mental harm of prisoners,

during the preceding three-month period or the period since the date of enactment of this section, whichever is shorter.

"(f) In addition to the requirements of subsection (e) applicable to Guatemala, no assistance under this section may be available for Guatemala unless the President certifies to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate that—

"(1) an elected civilian government is in power in Guatemala; and

"(2) the newly elected Government of Guatemala has demonstrated substantial progress—

"(A) in achieving control over its military and security forces;

"(B) toward eliminating kidnapings and disappearances, forced recruitment into the civil defense patrols, and other abuses by such forces of internationally recognized human rights; and

"(C) in respecting the internationally recognized human rights of its indigenous Indian population.".

TRANSFERS OF EQUIPMENT AND COMMODITIES

SEC. 204. Section 573(d)(4) of the Foreign Assistance Act of 1961 is amended—

(1) in subparagraph (A), by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (B) and (D)";

(2) in subparagraph (B), in the text above clause (i), by inserting "(other than under section 577)" after "chapter";

(3) in subparagraph (C), by inserting after "this section" the following: "(other than equipment and commodities made available under section 577)"; and

(4) by adding at the end thereof the following new subparagraphs:

"(D) For the fiscal year 1986, articles on the United States Munitions List may be made available under section 577 only if—

"(i) they are small arms in category I (relating to firearms), ammunition in category III (relating to ammunition) for small arms in category I, articles in category IV(c) or VI(c), articles in category X (relating to protective personnel equipment), or articles in subsection (b), (c), or (d) of category XIII, and they are directly related to anti-terrorism assistance under section 577; and

"(ii) at least 15 days before the articles are made available to the foreign country, the President notifies the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate of the proposed transfer, in accordance with the procedures applicable to reprogramming notifications pursuant to section 634A of this Act.

"(E) Not more than 10 percent of the value (in terms of original acquisition cost) of all equipment and commodities which are provided under section 577 to any country may constitute lethal commodities and equipment, and no shock batons or similar devices may be provided under section 577.".

COUNTERTERRORISM PROTECTION FUND

SEC. 205. The State Department Basic Authorities Act of 1956 is amended—

(1) by redesignating section 39 as section 40; and

(2) by inserting after section 38 the following new section:

"SEC. 39. (a) The Secretary of State is authorized to reimburse domestic and foreign persons, agencies, or governments for the protection of judges or other persons who provide assistance or information relating to terrorist incidents.

"(b)(1) There are authorized to be appropriated to the Secretary of State $1,000,000 for the fiscal year 1986 for use in reimbursing persons, agencies, or governments under this section.

"(2) Amounts appropriated under this section are authorized to remain available until expended.

"(c) Amounts made available under this section may be referred to as the 'Counterterrorism Protection Fund'.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 206. Section 575 of such Act is amended by striking out "$9,840,000 for fiscal year 1986" and inserting in lieu thereof "$30,840,000 for fiscal year 1986".

APPROPRIATIONS

At the end of section 101(j) in H.J. Res. 465, strike the period and add the following new language: ": *Provided further*, That in addition to amounts otherwise provided by this subsection, there are hereby appropriated $22,000,000 to carry out title II of this joint resolution, except that such funds may not be made available for obligation for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance."

SIMON AMENDMENT NO. 1371

Mr. SIMON proposed an amendment to amendment No. 1370 proposed by Mr. LUGAR to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the amendment add the following:

Section 573(d)(4)(E) of the Foreign Assistance Act of 1961, as added by the amendment, is amended—

(1) by striking out "(E) Not" and inserting in lieu thereof '(E)(i) Except as provided in clause (ii), not"; and

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

"(ii) No lethal commodity or equipment may be provided under section 577 to Guatemala.".

PELL AMENDMENT NO. 1372

Mr. PELL proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place in the bill add "for fiscal year 1986 there are appropriated $9,000,000 for United Nations Environmental Program.".

CHAFEE AMENDMENT NO. 1373

Mr. PELL (for Mr. CHAFEE) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 33, line 11, add after the period the following new sentence: "Sums appropriated by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1986, for the award of grants under section 1516 of the Public Health Service Act may be used for grants under that section to State agencies that were authorized to receive grants for fiscal year 1982 under section 935 (b) of the Omnibus Budget Reconciliation Act of 1981: *Provided*, That no sums may be obligated under the authority of this sentence after the date upon which a law is enacted to extend the authority to appropriate amounts to carry out title XV of such Act.".

STAFFORD AMENDMENT NO. 1374

Mr. STAFFORD proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the resolution, add a new section, as follows, and number it appropriately:

"SEC. . Using available funds, the Secretary of the Army, acting through the Chief of Engineers, shall take immediate steps to remove the wreck of the "A. Regina" from the vicinity of Mona Island, Puerto Rico, unless the Chief of Engineers determines, after consultation with independent marine salvage experts and such other experts as deemed necessary, that removal of the vessel is not feasible for technical reasons, or the Fish and Wildlife Service and the National Marine Fisheries Service, in consultation with the Commonwealth of Puerto Rico and the Chief of Engineers, determine that removal of the vessel would cause greater adverse effect on the hawksbill turtle, green turtle, leatherback turtle, and loggerhead turtle, or their nesting or feeding habitat, than would occur leaving the vessel in place."

HEINZ (AND OTHERS) AMENDMENT NO. 1375

Mr. HEINZ (for himself, Mr. KERRY, and Mr. MOYNIHAN) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

On page 6, line 16, strike the number "$1,019,391,000" and insert in lieu thereof "$1,103,041,000" and on page 6, line 18, strike the number $1,419,451,000", and insert in lieu thereof $1,425,902,000".

TRIBLE (AND OTHERS) AMENDMENT NO. 1376

Mr. TRIBLE (for himself, Mr. MATHIAS, Mr. SARBANES, Mr. HEINZ, Mr. WARNER, and Mr. COHEN) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution, add the following new section:

SEC. . None of the funds appropriated by this joint resolution may be obligated or expended to carry out a program to paint any naval vessel with paint known by the trade name of Organotin or with any other paint containing the chemical compound tributyltin. Until such time as the EPA certifies to the Department of Defense whatever toxicity is generated by Organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment.

HATFIELD AMENDMENT NO. 1377

Mr. HATFIELD proposed an amendment to amendment No. 1348 proposed by Mr. STEVENS to the joint resolution (H.J. Res. 465), supra; as follows:

On page 3, strike "law." at the end of section 101(d) and insert in lieu thereof the following: "law: *Provided*, That the appropriation for a federal contribution to the District of Columbia for the 'Criminal Justice Initiative' under amendment number 2 shall be '$13,860,000' instead of '$14,010,000'."

HATFIELD AMENDMENT NOS. 1378 THROUGH 1381

Mr. HATFIELD proposed four amendments to the joint resolution (H.J. Res. 465), supra; as follows:

AMENDMENT NO. 1378

At the end of the bill insert the following new section: "Notwithstanding any other provision of this joint resolution, out of funds available for Research, Development, Testing and Evaluation, Defense Agencies, within the Department of Defense, there shall be provided $10,000,000 for research, development and acquisition of a super computer with capabilities equal to or better than that of the Tesseract model parallel super computer system."

AMENDMENT NO. 1379

At the end of the bill insert the following new section: "Notwithstanding any other provision of this joint resolution, in the event the sale, award, or operation of any timber sale or sales in the Medford (Oregon) District of the Bureau of Land Management is enjoined, stayed or otherwise delayed by reason of administrative appeal or judicial review, the Secretary of the Interior shall resell timber returned under provisions of the Federal Timber Contract Payment Modification Act to the extent necessary to achieve sale of the full annual allowable cut for Fiscal Years 1985 and 1986 in the Medford District. The Secretary shall determine the potential environmental degradation of timber sales returned pursuant to the Federal Timber Contract Payment Modification Act and shall characterize each sale's potential environmental impact as mininal, moderate, or serious. The Secretary must give resale priority to those sales with the least risk of potential environmental degradation. Sales that are reoffered may be modified,

including minor additions. Any decision of the Secretary to resell such timber shall not be subject to judicial review."

AMENDMENT No. 1380

At an appropriate place in the bill, include the following new section:

MILITARY CONSTRUCTION, NAVY

For construction of the Brigade Activity Center at the United States Naval Academy, Annapolis, Maryland, the sum of $16,600,000 is appropriated, as authorized by law, to remain available until September 30, 1990.

AMENDMENT No. 1381

On page 37, after line 12, insert:

SEC. . Section 203(g) of the Legislative Reorganization Act of 1946, as amended (2 U.S.C. 166), is amended, effective hereafter, to read as follows:

"(g) The Director of the Congressional Research Service will submit to the Librarian of Congress for review, consideration, evaluation, and approval, the budget estimates of the Congressional Research Service for inclusion in the Budget of the United States Government."

HECHT AMENDMENT NO. 1382

Mr. McCLURE (for Mr. HECHT) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the appropriate place, insert the following:

SEC. . The Approximately 21,600 acres of public land in Churchill County, Nevada covered by the Department of the Navy withdrawal application N-19622 of March 6, 1978 are hereby segregated until such withdrawal is acted upon by the Congress. Segregation shall be to the extent specified in withdrawal application N-19622 and shall not prevent compatible land uses which would be allowed under the terms of the proposed withdrawal. During the segregation period, the Secretary of the Interior may prohibit public entry and use of the lands for reasons of public health and safety.

GORTON AMENDMENT NO. 1383

Mr. McCLURE (for Mr. GORTON) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution or any other provision of law, $11,023,000 of the contract authority available in the Federal Highway Trust Fund and not otherwise appropriated shall be available to the Forest Service for road construction and related facilities to serve the Mt. St. Helens National Volcanic Monument, Washington: *Provided*, That the foregoing shall not alter the amount of funds or contract authority that would otherwise be available for road construction to serve any state other than the state of Washington.

HATFIELD AMENDMENT NO. 1384

Mr. McCLURE (for Mr. HATFIELD) proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the bill insert the following new section:

SEC. . Notwithstanding any other provision of this joint resolution, in the event the sale, award, or operation of any timber sale or sales in the Medford (Oregon) District of the Bureau of Land Management is enjoined, stayed or otherwise delayed by reason of administrative appeal or judicial review, the Secretary of the Interior shall resell timber returned under provisions of the Federal Timber Contract Payment Modification Act to the extent necessary to achieve sale of the full annual allowable cut for Fiscal Years 1985 and 1986 in the Medford District. The Secretary shall determine the potential environmental degradation of timber sales returned pursuant to the Federal Timber Contract Payment Modification Act and shall characterize each sale's potential environmental impact as minimal, moderate, or serious. The Secretary must give resale priority to those sales with the least risk of potential environmental degradation. Sales that are reoffered may be modified, including minor additions. Any decision of the Secretary to resell such timber shall not be subject to judicial review.

BYRD AMENDMENT NO. 1385

Mr. BYRD proposed an amendment to the joint resolution (H.J. Res. 465), supra; as follows:

At the end of the joint resolution add the following new section:

SEC. . Notwithstanding any other provision of this joint resolution or any other provision of law, any student residing in an area designated as a natural disaster area pursuant to a provision of Federal law may, if otherwise eligible for a Pell Grant under subpart 1 of part A of title IV of the Higher Education Act of 1965, qualify for a Pell Grant under such subpart without regard to the limitation on the loss of income in the calendar year in the determination of expected family contribution under such subpart.

HATCH AMENDMENT NOS. 1386 AND 1387

(Ordered to lie on the table.)

Mr. HATCH submitted two amendments intended to be proposed by him to the joint resolution (H.J. Res. 465), supra; as follows:

AMENDMENT NO. 1386

At the appropriate place add the following new title:

TITLE II

SEC. 201. This title may be cited as the "Sex Discrimination in the United States Code Reform Act of 1985"

PART A—UNIFORMED SERVICES AND MERCHANT MARINE AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE UNIFORM CODE OF MILITARY JUSTICE

SEC. 211. (a) Section 920 of title 10, United States Code, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) Any person subject to this chapter who commits an act of sexual intercourse with another person not his or her spouse, by force and without the consent of such other person, is guilty of rape and shall be punished by death or such other punishment as a court-martial may direct.

"(b) Any person subject to this chapter who, under circumstances not amounting to rape, commits an act of sexual intercourse with another person not his or her spouse who has not attained the age of sixteen years, if guilty of carnal knowledge and shall be punished as a court-martial may direct.".

(b) Section 933 of title 10 United States Code, is amended by inserting "or a gentlewoman" after "gentleman".

AMENDMENTS TO TITLE 10. UNITED STATES CODE, RELATING TO THE ARMY

SEC. 212. (a) Section 3683 of title 10 United States Code, is repealed.

(b) Section 3963 of such title is repealed.

(c) Section 4309(b) of such title is amended by striking out "males" and inserting in lieu thereof "persons".

(d) The second sentence of section 4313(a) of such title is amended by striking out "man" and inserting in lieu thereof "competitor".

(e) Section 4651 of such title is amended to read as follows:

"§ 4651. Arms, tentage, and equipment: educational institutions not maintaining units of R.O.T.C.

"Under such conditions as the Secretary of the Army may prescribe, such Secretary may issue arms, tentage, and equipment that such Secretary considers necessary for proper military training, to any educational institution at which no unit of the Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by such Secretary and which has at least one hundred physically fit students over fourteen years of age.".

(f) Section 4712(d) of such title is amended by striking out clauses (1) through (9) and inserting in lieu thereof the following:

"(1) The surviving spouse or legal representative.

"(2) A child of the deceased.

"(3) A parent of the deceased.

"(4) A brother or sister of the deceased.

"(5) A next of kin of the deceased.

"(6) A beneficiary named in the will of the deceased to receive the property.".

(q) Section 4713(a)(2) of such title is amended by striking out subclauses (A) through (T) and inserting in lieu thereof the following:

"(A) The surviving spouse or legal representative.

"(B) A child of the deceased.

"(C) A parent of the deceased.

"(D) A brother or sister of the deceased.

"(E) The next of kin of the deceased.

"(F) A beneficiary named in the will of the deceased to receive the property.".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE NAVY

SEC. 213. (a) Section 6160(a) of title 10, United States Code, is amended by striking out "man" and inserting in lieu thereof "member".

(b) Section 6964(e) of such title is amended by striking out "men" and inserting in lieu thereof "persons".

(c) Section 7601 of such title is amended—

(1) in subsection (a), by striking out "widows" and inserting in lieu thereof "surviving spouses"; and

(2) in the first sentence of subsection (b)—

(A) by striking out "him" and inserting in lieu thereof "the Secretary"; and

(B) by striking out "he" each place it appears and inserting in lieu thereof "the Secretary".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE AIR FORCE

SEC. 214. (a) Section 8683 of title 10, United States Code, is repealed.

(b) Section 8963 of such title is repealed.

(c) Section 9651 of such title is amended to read as follows:

"§ 9651. Arms, tentage, and equipment: educational institutions not maintaining units of A.F.R.O.T.C.

"Under such conditions as the Secretary of the Air Force may prescribe, such Secretary may issue arms, tentage, and equipment that such Secretary considers necessary for proper military training, to any educational institution at which no unit of the Air Force Reserve Officers' Training Corps is maintained, but which has a course in military training prescribed by such Secretary and which has at least 100 physically fit students over 14 years of age.".

(d) Section 9712(d) of such title is amended by striking out clauses (1) through (9), and inserting in lieu thereof the following:

"(1) The surviving spouse or legal representative.

"(2) A child of the deceased.

"(3) A parent of the deceased.

"(4) A brother or sister of the deceased.

"(5) The next of kin of the deceased.

"(6) A beneficiary named in the will of the deceased to receive the property.".

(e) Section 9713(a)(2) of such title is amended by striking out subclauses (A) through (I) and inserting in lieu thereof the following:

"(A) The surviving spouse or legal representative.

"(B) A child of the deceased.

"(C) A parent of the deceased.

"(D) A brother or sister of the deceased.

"(E) The next of kin of the deceased.

"(F) A beneficiary named in the will of the deceased to receive the property.".

AMENDMENTS TO TITLE 10, UNITED STATES CODE, RELATING TO THE ARMED FORCES GENERALLY

SEC. 215. (a) Section 311(a) of title 10, United States Code, is amended—

(1) by striking out "males" and inserting in lieu thereof "persons"; and

(2) by striking out "and of female citizens of the United States who are commissioned officers of the National Guard".

(b) Section 772(c) of such title is amended—

(1) by striking out "his" and inserting in lieu thereof "the retired officer's"; and

(2) by striking out the second sentence.

(c)(1) Section 1431(b) of such title is amended—

(A) in the first and second sentences—

(i) by striking out "he" each place it appears and inserting in lieu thereof "the person"; and

(ii) by striking out "his" each place it appears and inserting in lieu thereof "the person's";

(B) in the third sentence—

(i) by striking out "he" each place it appears and inserting in lieu thereof "the member"; and

(ii) by striking out "his" and inserting in lieu thereof "the member's";

(C) in the fourth sentence, by striking out "him" and inserting in lieu thereof "the member";

(D) in clause (1) of the fifth sentence—

(i) by striking out "he is entitled" and inserting in lieu thereof "the elector's entitlement of";

(ii) by striking out "his being granted" and inserting in lieu thereof "the grant of"; and

(iii) by striking out "his" and inserting in lieu thereof "the elector's"; and

(E) in clause (3) of such sentence—

(i) by striking out "his widow" and inserting in lieu thereof "the elector's surviving spouse"; and

(ii) by striking out "his death" and inserting in lieu thereof "the member's death".

(2) Section 1431(c) of such title is amended—

(A) by striking out "his" each place it appears and inserting in lieu thereof "the member's"; and

(B) in the second sentence, by striking out "he" and inserting in lieu thereof "the member".

(3) Section 1431(d) of such title is amended by—

(A) by striking out "he" the first place it appears and inserting in lieu thereof "the member"; and

(B) adding after "he" the second place it appears "or she".

(d) Section 1451(a)(2) of title 10, United States Code, is amended—

(1) by adding "or widower" after "widow" each place it appears; and

(2) by inserting "or father's" after "mother's".

REPEAL OF AUTHORITY TO MAKE TEMPORARY APPOINTMENTS AS OFFICERS IN THE ARMY

SEC. 216. The Act entitled "An Act to authorize temporary appointment as officers in the Army of the United States of members of the Army Nurse Corps, female persons having the necessary qualifications for appointment in such corps, female dietetic and physical-therapy personnel of the Medical Department of the Army (exclusive of students and apprentices), and female persons having the necessary qualifications for appointment in such department as female dietetic or physical-therapy personnel, and for other purposes.", approved June 22, 1944 (58 Stat. 324; 50 U.S.C. App. 1591 et seq.) is repealed.

AMENDMENTS TO THE SOLIDERS AND SAILORS' CIVIL RELIEF ACT OF 1940

SEC. 217. (a) Section 300 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 530) is amended—

(1) in subsection (1), by striking out "wife" and inserting in lieu thereof "spouse"; and

(2) in subsection (4)—

(A) by inserting "or she" after "he"; and

(B) by striking out "wife" and inserting in lieu thereof "spouse".

(b) Section 503 of such Act (50 U.S.C. App. 563) is amended—

(1) in subsection (1), by striking out "his widow, if unmarried, or in the case of her death or marriage, his minor children, or his or" and inserting in lieu thereof "the surviving spouse, if unmarried, or in the case of the surviving spouse's death or marriage, the minor children, or"; and

(2) in subsection (2), by inserting "or she" after "he".

(c) Section 504 of such Act (50 U.S.C. App. 564) is amended—

(1) by striking out "entryman" each place it appears and inserting in lieu thereof "enterer";

(2) by striking out "his" each place it appears and inserting in lieu thereof "his or her"; and

(3) by striking out "he" each place it appears and inserting in lieu thereof "he or she".

(d) Section 510 of such Act (50 U.S.C. App. 570) is amended—

(1) by striking out "entryman" each place it appears and inserting in lieu thereof "enterer";

(2) by striking out "his" each place it appears and inserting in lieu thereof "his or her"; and

(3) by striking out "he" each place it appears and inserting in lieu thereof "he or she".

AMENDMENTS RELATING TO ALLOTMENT OF PENSIONS OF INMATES OF THE SOLDIERS' HOME

SEC. 218. Section 4 of the Act entitled "An Act prescribing regulations for the Soldiers' Home located at Washington, in the District of Columbia, and for other purposes.", approved March 3, 1883 (22 Stat. 564; 24 U.S.C. 52) is amended—

(1) in the first sentence—

(A) by striking out "wife" each place it appears and inserting in lieu thereof in each such place "spouse"; and

(B) by striking out "his" and inserting in lieu thereof "the inmate's";

(2) in the third sentence—

(A) by striking out "him" each place it appears and inserting in lieu thereof in each such place "the pensioner"; and

(B) by striking out "his";

(3) in the fourth sentence—

(A) by striking out "his" each place it appears and inserting in lieu thereof in each such place "the inmate's"; and

(B) by striking out "he" and inserting in lieu thereof "the pensioner"; and

(4) in the fifth sentence—

(A) by striking out "him" and inserting in lieu thereof "the pensioner"; and

(B) by striking out "his" and inserting in lieu thereof "the pensioner's".

MISCELLANEOUS AMENDMENTS RELATING TO THE UNIFORMED SERVICES

SEC. 219. (a) The Act entitled "An Act to authorize the burial in national cemeteries of the remains of certain commissioned officers of the Public Health Service", approved April 30, 1956 (70 Stat. 124; 42 U.S.C. 213 note), is amended by—

(1) striking out "wife, widow" the first place it appears and inserting in lieu thereof "spouse, surviving spouse"; and

(2) striking out "wife, widow" the second place it appears and inserting in lieu thereof "spouse".

(b) Section 551 of title 37, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking out "his wife" in subparagraph (A) and inserting in lieu thereof "the member's spouse";

(B) by striking out "his" in subparagraphs (B) and (C) and inserting in lieu thereof "such member's"; and

(C) by striking out "his designee" in subparagraph (E) and inserting in lieu thereof "the designee of such Secretary"; and

(2) in paragraph (2) by striking out "his" and inserting in lieu thereof "such members".

TECHNICAL AMENDMENTS

SEC. 220. (a) The table of sections at the beginning of chapter 353 of title 10, United States Code, is amended by striking out the item relating to section 3683.

(b) The table of sections at the beginning of chapter 369 of such title is amended by striking out the item relating to section 3963.

(c) The table of sections at the beginning of chapter 853 of such title is amended by striking out the item relating to section 8683.

(d) The table of sections at the beginning of chapter 869 of such title is amended by striking out the item relating to section 8963.

SAVING PROVISIONS

SEC. 221. (a) The repeal made by section 212(a) shall not apply in the case of any person who performed active service described in section 3683 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(b) The repeal made by section 212(b) shall not apply in the case of any member of the Regular Army described in section 2963 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(c) The repeal made by section 214(a) shall not apply in the case of any person who performed active service described in section 8683 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(d) The repeal made by section 214(b) shall not apply in the case of any Air Force nurse or medical specialist described in section 8963 of title 10, United States Code, as such section was in effect on the day before the effective date of such repeal.

(e) The repeal made by section 216 shall not apply in the case of any officer in the Army appointed and assigned under the first section of the Act referred to in section 216, as such Act was in effect on the day before the date of enactment of this title.

PART B—ELIMINATION OF GENDER-BASED DISTINCTIONS UNDER THE SOCIAL SECURITY ACT AND THE RAILROAD RETIREMENT ACT

SOCIAL SECURITY ACT PROVISIONS

SEC. 231. (a) Section 213(a) of the Social Security Act (42 U.S.C. 413(a)(2)(B)) is amended by—

(1) striking out "(if a woman) or age 65 (if a man)";

(2) in clause (iii), by striking out "him" and inserting in lieu thereof "such individual"; and

(3) in the matter between clause (vii) and subsection (b), by—

(A) striking out "his primary" and inserting in lieu thereof "such individual's primary";

(B) striking out "his having" and inserting in lieu thereof "such individual having";

(C) striking out "his quarters" and inserting in lieu thereof "such individual's quarters";

(D) striking out "his survivor" each place it appears and inserting in lieu thereof "the survivors of such individual"; and

(E) striking out "his record" and inserting in lieu thereof "such individual's record".

(b) Section 213(c)(1) of the Social Security Act (42 U.S.C. 413(c)(1)) is amended by striking out "him" and inserting in lieu thereof "such individual".

(c) Section 213(d) of the Social Security Act (42 U.S.C. 413(d)) is amended by striking out "his delegate" and inserting in lieu thereof "the delegate of such Secretary".

(d) Section 215(f)(5) of such Act (42 U.S.C. 415(f)(5)) is amended by—

(1) striking out "a man" and inserting in lieu thereof "an individual";

(2) striking out "his" each place it appears and inserting in lieu thereof "such individual's"; and

(3) striking out "he" each place it appears and inserting in lieu thereof "such individual".

(e) Section 402(a)(19)(G)(iv)) of such Act (42 U.S.C. 602(a)(19)(G)(iv) is amended by striking out "mother" and inserting in lieu thereof "parent", and by striking out "she".

(f) The amendments made by this section shall apply on and after the date of the enactment of this title, and in the case of monthly benefits under title II of the Social Security Act shall only apply to benefits payable for months beginning on or after such date of enactment.

RAILROAD RETIREMENT

SEC. 232. (a) Section 2(c) of the Railroad Retirement Act of 1974 (45 U.S.C. 231a(c)) is amended—

(1) in subdivision (1)(ii)(C) (45 U.S.C. 231a(c)(1)(ii)(C)), by striking out ", in the case of a wife, has in her care (individually or jointly with her husband)" and inserting in lieu thereof "has in his or her care (individually or jointly with his or her spouse)";

(2) in subdivision (2) (45 U.S.C. 231a(c)(2)), by inserting "or divorced husband" after "divorced wife" each place it appears;

(3) in subdivision (3) (45 U.S.C. 231a(c)(3))—

(A) by striking out "who (i)" and inserting in lieu thereof "who", and

(B) by striking out "; and (ii)" and all that follows and inserting in lieu thereof a period; and

(4) by amending subdivison (4) (45 U.S.C. 231a(c)(4)) to read as follows:

"(4) The divorced wife (as defined in section 216(d) of the Social Security Act) or divorced husband (as defined in such section) of an individual, if—

"(i) Such individual (A) is entitled to an annuity under subsection (a)(1) of this section, and (B) has attained age 62;

"(ii) such divorced wife or divorced husband (A) has attained retirement age (as defined in section 216(1) of the Social Security Act), and (B) is not married; and

"(iii) such divorced wife or divorced husband would have been entitled to a benefit under section 202(b) or 202(c) of the Social Security Act as the divorced wife or divorced husband of such individual if all of such individual's service as an employee after December 31, 1936, had been included in the term 'employment' as defined in such Act,

shall, subject to the condition set forth in subsections (e), (f), and (h) of this section, be entitled to a divorced wife's or divorced husband's annuity, if she or he has filed an application therefor, in the amount provided under section 4 of this Act.".

(b) Section 2(d) (45 U.S.C. 231a(d)) of such Act is amended—

(1) in subdivision (1)(i) (45 U.S.C. 231a(d)(1)(i)), by striking out ", and who, in the case of a widower" and all that follows and inserting in lieu thereof a semicolon;

(2) subdivision (1)(ii) (45 U.S.C. 231a(d)(1)(ii)), by inserting "or widower (as defined in section 216 (g) and (k) of the Social Security Act)" after "a widow (as defined in section 216 (c) and (k) of the Social Security Act)", and by striking out "her care" and inserting in lieu thereof "her or his care";

(3) by amending subdivision (1)(v) (45 U.S.C. 231a(d)(1)(v)) to read as follows:

"(v) the widow (as defined in section 216(c) of the Social Security Act), who is married, or has been married after the death of the employee, the widower (as defined in section 216(g) of the Social Security Act) who is married, or has been married after the death of the employee, the surviving divorced wife (as defined in section 216(d) of the Social Security Act), the surviving divorced husband (as defined in section 216(d) of the Social Security Act), the surviving divorced mother (as defined in section 216(d) of the Social Security Act), and the surviving divorced father (as defined in section 216(d) of the Social Security Act) if such widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father would have been entitled to a benefit under section 202(e), 202(f), or 202(g) of the Social Security Act as the widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father of the employee if all of the employee's service as an employee after December 31, 1936, had been included in the term 'employment' as defined in that Act. For the purpose of this paragraph—

"(A) the references in section 202(e)(3) and 202(g)(3) of the Social Security Act to an individual entitled under section 202(f) of that Act shall include an individual entitled to an annuity under paragraph (i) of this subdivision and an individual entitled to an annuity under paragraph (ii) of this subdivision,

"(B) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(b) of that Act shall include an individual entitled to an annuity under subsection (c) of this section,

"(C) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202 (e) or (g) of that Act shall include an individual entitled to an annuity under paragraph (i) of this subdivision and an individual entitled to an annuity under paragraph (ii) of this subdivision,

"(D) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(h) of that Act shall include an individual entitled to an annuity under paragraph (iv) of this subdivision,

"(E) the reference in section 202(f)(4) of the Social Security Act to an individual entitled under section 202(d) of that Act shall include an individual entitled to an annuity under paragraph (iii) of this subdivision,

"(F) the reference in section 202(e)(3) of the Social Security Act to an individual entitled under section 202(d) or section 202(h) of that Act shall include an individual entitled to an annuity under paragraph (iii) or paragraph (iv) of this subdivision, and

"(G) the references in section 202(c)(3) and section 223(a) that Act shall include an individual entitled to an annuity under subsection (a)(1) of this section."; and

(4) by amending subdivision (2)(B) (45 U.S.C. 231a(d)(2)(B)) to read as follows: "the last month for which the widow or widower was entitled to an annuity under clause (ii) of subdivision (1) as the widow or widower of the deceased employee, or".

(c) Section 2(e)(5) (45 U.S.C. 231a(e)(5)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(d) Section 2(f)(2) (45 U.S.C. 231a(f)(2)) of such Act is amended by inserting "or divorced husband's" after "divorced wife's" each place it appears.

(e) Section 2(h)(3) (45 U.S.C. 231a(h)(3) of such Act is amended by inserting "or divorced husband" after "divorced wife".

(f) Section 4(a)(1) (45 U.S.C. 231c(a)(1)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(g) Section 4(f)(2)(iii) (45 U.S.C. 231c(f)(2)(iii)) of such Act is amended to read as follows:

"(iii) the provisions of paragraphs (i) and (ii) of this subdivision shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annu-

ity or the basis of the provisions of suction 2(d)(1)(v) of this Act.".

(h) Section 4(g)(5) (45 U.S.C. 231c(g)(5)) of such Act is amended to read as follows:

"(5) This subsection shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(i) Section 4(h)(2) (45 U.S.C. 231c(h)(2)) of such Act is amended by striking out the first sentence thereof and inserting in lieu thereof the following; "Subdivision (1) of this subsection shall not apply to the annuity of a widow, widower, surviving divorced wife, surviving divorced husband, surviving divorced mother, or surviving divorced father, who is entitled to such annuity on the basis of the provisions of section 2(d)(1)(v) of this Act.".

(j) Section 4(i) (45 U.S.C. 231c(i)(1)) of such Act is amended by inserting "or divorced husband" after "divorced wife" each place it appears.

(k) Section 5(c)(3) (45 U.S.C. 231d(c)(3)) of such Act is amended—

(1) by inserting "or husband" after "wife" each place it appears in the first sentence thereof;

(2) by striking out "her care" and inserting in lieu thereof "her or his care"; and

(3) by inserting "or divorced husband" after "divorced wife" each place it appears in the second sentence thereof.

(l) Section 5(c)(6) (45 U.S.C. 231d(c)(6)) of such Act is amended—

(1) by inserting "or widower" after "widow";

(2) by inserting "or he" after "she" each place it appears; and

(3) by striking out "her care" and inserting in lieu thereof "her or his care".

(m) Section 6(a)(3) (45 U.S.C. 231e(a)(3)) of such Act is amended by inserting "or divorced husband" after "divorced wife" and by inserting "or divorced husband's" after "divorced wife's".

(n) Section 6(a)(2) (45 U.S.C. 231e(b)(2)) of such Act is amended by inserting "surviving divorced husband," after "widower," the first place it appears.

(o) Section 6(c)(2) (45 U.S.C. 231e(c)(2)) of such Act is amended by inserting "or divorced husband" after "divorced wife".

(p) Section 7(b)(2)(B) (45 U.S.C. 231f(b)(2)(B)) of such Act is amended by inserting "or divorced husband" after "husband".

(q) Section 7(d)(2)(i)(B) (45 U.S.C. 231f(d)(2)(i)(B)) of such Act is amended by inserting "or divorced husband" after "divorced wife".

(r) The amendments made by this section shall be effective with respect to annuities payable for months after December 1985.

WORK INCENTIVE PROGRAM

SEC. 233. (a) Section 433(a) of the Social Security Act (42 U.S.C. 633(a)) is amended by striking out all after the colon in the last sentence thereof and inserting in lieu thereof the following: "first, unemployed parents who are the principal earners (as defined in section 407); second, mothers or fathers, whether or not required to register pursuant to section 402(a)(19)(A), who volunteer for participation under a work incentive program; third, other mothers or fathers and pregnant women, registered pursuant to section 402(a)(19)(A), who are under 19 years of age; fourth, dependent children and relatives who have attained age 16 and who are not in school or engaged in work or employment related training; and fifth, all other individuals so certified.".

(b) The amendment made by this section shall become effective on the date of the enactment of this title.

PART C—MISCELLANEOUS AMENDMENTS

AMENDMENTS TO TITLE 5, UNITED STATES CODE

SEC. 241. (a) Section 2108(3) of title 5, United States Code, is amended by striking out subparagraphs (F) and (G) and inserting in lieu thereof the following:

(F) any parent of an individual who lost his or her life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—

(i) such parent's spouse is totally and permanently disabled;

(ii) such parent is widowed, divorced, or separated from the other parent and has not remarried; or

(iii) such parent has remarried but is widowed, divorced, or legally separated when preference is claimed; and

(G) any parent of a service-connected permanently and totally disabled veteran, if—

(i) such parent's spouse is totally and permenantly disabled;

(ii) such parent is widowed, divorced, or separated from the other parent and has not remarried; or

(iii) such parent has remarried but is widowed, divorced or legally separated when preference is claimed;".

(b) Section 5561(3)(A) of title 5, United States Code, is amended by striking out "wife" and inserting in lieu thereof "spouse".

(c) Section 8332(j)(1) of title 5, United States Code, is amended by—

(1) striking out "his widow" each place it appears and inserting in lieu thereof "the surviving spouse"; and

(2) striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

IMMIGRATION

SEC. 242. (a) The first sentence of section 283 of the Immigration and Nationality Act (8 U.S.C. 1353) is amended by striking out 'wives" and inserting in lieu thereof "spouses".

(b) Section 340 of such Act (8 U.S.C., 1451) is amended—

(1) in subsection (a) by—

(A) striking out "his naturalization" and inserting in lieu thereof "his or her naturalization";

(B) striking out "his subversive" and inserting in lieu thereof "his or her subversive"; and

(C) striking out "his residence" and inserting in lieu thereof "his or her residence".

(2) in subsection (b) by—

(A) striking out "his residence" and inserting in lieu thereof "his or her residence"; and

(B) striking out "upon him".

(3) in subsection (d) by—

(A) striking out "his nativity" and inserting in lieu thereof "his or her nativity"; and

(B) striking out "his petition" and inserting in lieu thereof "his or her petition";

(4) in subsection (e) by—

(A) striking out "his certificate" and inserting in lieu thereof "his or her certificate"; and

(B) striking out "wife" and inserting in lieu thereof "spouse"; and

(5) in subsection (f) by—

(A) striking out "he may" and inserting in lieu thereof "he or she may"; and

(B) striking out "his citizenship" and inserting in lieu thereof "his or her citizenship".

(c) The first sentence of section 341 of such Act (8 U.S.C. 1452) is amended by striking out "husband" and inserting in lieu thereof "spouse".

(d) Section 357 of such Act (8 U.S.C. 1489) is amended—

(1) by striking out "woman" each of the two places it appears and inserting in lieu thereof "person"; and

(2) by inserting before "her" each of the two places it appears "his".

(e) The Act entitled "An Act to further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of women and girls, and for other purposes", approved June 25, 1910 (36 Stat. 826, chapter 395; 8 U.S.C. 1557) is amended—

(1) by amending the title to read as follows: "An Act to further regulate interstate and foreign commerce by prohibiting the transportation therein for immoral purposes of adults and youths, and for other purposes"; and

(2) by striking out "women and girls" each of the five places it appears and inserting in lieu thereof "adults and youths".

(f) Section 1 of the Act entitled "An Act Making Appropriations for the Diplomatic and Consular Service for the fiscal year ending June 30, 1921", approved June 4, 1920 (41 Stat. 750, chapter 223; 22 U.S.C. 214) is amended by—

(1) inserting "or her" after "his" each place it appears; and

(2) striking out in the third sentence "widow" and inserting in lieu thereof "surviving spouse".

(g) Section 321 of the Immigration and Nationality Act (8 U.S.C. 1432) is amended in paragraph (3) of subsection (a) by striking out "the naturalization of the mother".

WALSH-HEALEY

SEC. 243. (a) Subsection (d) of the first section of the Act entitled "An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes" (commonly referred to as the Walsh-Healey Act), approved June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35) is amended by striking out "no male person under sixteen years of age and no female person under eighteen years of age" and inserting in lieu thereof "no person under sixteen years of age".

(b) The first sentence of section 2 of such Act (49 Stat. 2037; 41 U.S.C. 36) is amended by striking out "each male person under sixteen years of age or each female person under eighteen years of age," and inserting in lieu thereof "each person under sixteen years of age".

AGRICULTURE

SEC. 244. Selection 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended—

(1) by striking out "of working mothers" in the third sentence of subsection (c) and inserting in lieu thereof "from households in which both parents work or from single parent households in which the parent works"; and

(2) by striking out "his" in the third sentence of subsection (g) and inserting in lieu thereof "the Secretary's".

INDIAN AFFAIRS

SEC. 245. The Act entitled "An Act authorizing appropriations and expenditures for the administration of Indian affairs, and for

other purposes" approved November 2, 1921 (42 Stat. 208, chapter 115; 25 U.S.C. 13) is amended by striking out "field matrons,".

SEC. 246. Section 3 of the Act of March 3, 1875 (18 Stat. 449, chapter 132; 25 U.S.C. 137) is hereby repealed.

SEC. 247. The Act entitled "An Act in relation to marriage between white men and Indian women" approved August 9, 1888 (25 Stat. 392; 25 U.S.C. 181 et seq.) is amended—

(1) by amending the title to read as follows: "An Act in relation to marriage between non-Indians and Indians";

(2) in section 1 (25 Stat. 392; 25 U.S.C. 181) by—

(A) striking out "white man" and inserting in lieu thereof "non-Indian"; and

(B) striking out "woman";

(3) by repealing section 2 (25 Stat. 392; 25 U.S.C. 182); and

(4) in section 3 (25 Stat. 392; 25 U.S.C. 183) by—

(A) striking out "white man" and inserting in lieu thereof "non-Indian"; and

(B) striking out "woman".

SEC. 248. The Act of June 7, 1897 (30 Stat. 62, chapter 3) is amended—

(1) in section 1 (30 Stat. 90, chapter 3; 25 U.S.C. 184) by—

(A) striking out "white man" and inserting in lieu thereof "non-Indian";

(B) striking out "woman" each place it appears;

(C) striking out "her death" each place it appears and inserting in lieu thereof "his or her death"; and

(D) striking out "mother" and inserting in lieu thereof "Indian parent"; and

(2) in section 1 (30 Stat. 83, chapter 3; 25 U.S.C. 274) by striking out "girls as assistant matrons and Indian boys" and inserting in lieu thereof "youths as dormitory aids and".

SEC. 249. (a) Section 3 of the Act of September 21, 1959 (73 Stat. 592; 25 U.S.C. 933(c)) is amended by striking out "wife" and inserting in lieu thereof "or her spouse".

(b) The Act of September 5, 1962 (76 Stat. 429; 25 U.S.C. 971 et seq.) is amended by repealing sections 1 throught 9 and the first sentence of section 10.

SEC. 250. Section 5 of the Act of February 28, 1891 (26 Stat. 795, Chapter 383; 25 U.S.C. 371) is amended by striking out "father" and inserting in lieu thereof "parents".

SEC. 251. (a) Section 245 of title 18, United States Code, is amended—

(1) in subsection (a), by striking out "his judgment" and inserting in lieu thereof "the judgment of such Attorney";

(2) in subsection (c), by striking out "his" each place it appears and inserting in lieu thereof "such individual's".

(b) Section 1153 of title 18, United States Code, is amended by striking out "female, not his wife" and inserting in lieu thereof "person not his or her spouse".

(c)(1) Section 2032 of title 18, United States Code, is amended by—

(A) striking out "female" and inserting in lieu thereof "person"; and

(B) striking out "wife" and inserting in lieu thereof "his or her spouse".

(2) The heading for section 2032 of title 18, United States Code, is amended to read as follows:

"§ 2032. Carnal knowledge of a person under 16".

(3) The table of sections for chapter 99 of title 18, United States Code, is amended by striking out the item for section 2032 and inserting in lieu thereof the following:

"2032. Carnal knowledge of a person under.".

(d) Sections 2198, 2424, 3286, and 3614 of title 18, United States Code, and all references to such sections including the items relating to such sections in the table of sections, are repealed.

(e) Section 2421 of title 18, United States Code, is amended—

(1) by striking out "Whoever" each place it appears and inserting in lieu thereof "Any individual who";

(2) by striking out "person" in the second paragraph and inserting in lieu thereof "individual";

(3) by striking out "woman or girl" each place it appears and inserting in lieu thereof "other person";

(4) by inserting "himself or" before "herself" each place it appears; and

(5) by striking out "her" in the second paragraph and inserting in lieu thereof "such other person".

(f) Section 2422 of title 18, United States Code, is amended—

(1) by striking out "Whoever" and inserting in lieu thereof "Any individual who";

(2) by striking out "person" and inserting in lieu thereof "individual";

(3) by striking out "woman or girl" each place it appears and inserting in lieu thereof "other person"; and

(4) by striking out "her" and inserting in lieu thereof "such other person's".

(c)(1) Section 2424 of title 18, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out "woman or girl" each place it appears;

(ii) by striking out "she has entered" each place it appears and inserting in lieu thereof "such alien has entered";

(iii) by inserting "he or" before "she" each place it appears;

(iv) by inserting "his or" before "her" each place it appears; and

(v) by striking out "his knowledge" and inserting in lieu thereof "his or her knowledge";

(B) in subsection (b), by striking out "him" each place it appears and inserting in lieu thereof "such person"; and

(C) in the section heading, by striking out "female".

(2) the table of sections for chapter 117 of title 18, United States Code, is amended by striking out "female" in the item relating to section 2424.

PUBLIC LANDS

SEC. 252. Section 2287 of the Revised Statutes (43 U.S.C. 161) is amended—

(1) in the first sentence by striking out "Every person who is the head of a family, or who has" and inserting in lieu thereof "Every person who is married or who has one or more dependents or who has"; and

(2) by inserting after "his" each place it appears the following: "or her".

SEC. 253. Section 2290 of the Revised Statutes (43 U.S.C. 162) is amended in the matter before the first semicolon by striking out "the head of a family, or is over twenty-one years of age," and inserting in lieu thereof "is married, or has one or more dependents, or is over twenty-one years of age,".

SEC. 254. Section 2291 of the Revised Statutes (43 U.S.C. 164) is amended by—

(1) striking out "No certificate shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself" and insert in lieu thereof "No certificate shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if such enterer be dead, the surviving spouse, or in case of the surviving spouse's death prior to making entry the enterer's heirs or devisee, or in case of a surviving spouse making such entry the surviving spouse's heirs or devisee, in case of the surviving spouse's death, proves by the enterer";

(2) striking out "he, she, or they" each place it appears and inserting in lieu thereof "they";

(3) striking out "entryman" each place it appears and inserting in lieu thereof "enterer";

(4) in the second proviso by—

(A) striking out "date of his death" and inserting in lieu thereof "date of his or her death"; and

(B) striking out "had he lived" and inserting in lieu thereof "had he or she lived"; and

(5) in the third proviso by—

(A) striking out "area of his entry" and inserting in lieu thereof "area of his or her entry"; and

(B) striking out "by him".

SEC. 255. Section 3 of the Act entitled "An Act for the relief of settlers on public lands", approved May 14, 1880 (21 Stat. 141; 43 U.S.C. 166) is amended—

(1) in the first sentence by—

(A) striking out "time to file his" and inserting in lieu thereof "time to file his or her";

(B) striking out "perfect his original entry" and inserting in lieu thereof "perfect original entry";

(C) striking out "and his right" and inserting in lieu thereof "and the right"; and

(D) striking out "if he settled" and inserting in lieu thereof "if the settler settled";

(2) in the matter before the first proviso in the second sentence by—

(A) striking out "unmarried women" and inserting in lieu thereof "unmarried person";

(B) striking out "she" and inserting in lieu thereof "the person";

(C) striking out "her marriage" and inserting in lieu thereof "the marriage"; and

(D) striking out "her right" and inserting in lieu thereof "his or her right";

(3) in the first proviso by striking out "she does not abandon" and inserting in lieu thereof "the person does not abandon his or";

(4) by striking out the second proviso; and

(5) in the remaining provisos by—

(A) striking out "he" and inserting in lieu thereof "the settler"; and

(B) striking out "his" both places it appears and inserting in lieu thereof "his or her".

SEC. 256. The Act entitled "An Act providing that the marriage of a homestead entryman to a homestead entrywoman shall not impair the right of either to a patent after compliance with the law a year, to apply to existing enterers", approved April 6, 1914 (38 Stat. 312; 43 U.S.C. 167) is amended to read as follows:

"The marriage of one homestead enterer to another after each shall have fulfilled the requirements of the homestead law for one year next preceding such marriage shall not impair the right of either to a patent, but if they choose to live together, they

shall together elect on which of the two entries the home shall thereafter be made and residence thereon by both spouses shall constitute a compliance with the residence requirements upon each entry: *Provided*, That the provisions of this action shall apply to entries existing on April 6, 1914: *Provided further*, That in the administration of this section the term 'enterer' shall be construed to include bona fide settlers who have complied with the homestead law for at least one year next preceding such marriage.".

SEC. 257. The Act entitled "An Act to provide for certificate of title to homestead entry by a female American citizen who has intermarried with an alien", approved October 17, 1914 (38 Stat. 740; 43 U.S.C. 168) is repealed.

SEC. 258. The Act entitled "An Act to provide for issuing patents for public lands claimed under the homestead laws by deserted wives", approved October 22, 1914 (38 Stat. 766; 43 U.S.C. 170) is amended—

(1) in the matter before the first proviso by—

(A) striking out "wife" both places it appears and inserting in lieu thereof "spouse";

(B) striking out "by her husband" and inserting in lieu thereof "by the enterer spouse";

(C) striking out "in her name" and inserting in lieu thereof "in his or her name"; and

(D) striking out "entryman" and inserting in lieu thereof "enterer";

(2) in the first proviso by—

(A) striking out "wife" and inserting in lieu thereof "deserted spouse";

(B) striking out "herself" and inserting in lieu thereof "such deserted spouse"; and

(C) striking out "her husband" and inserting in lieu thereof "the enterer spouse"; and

(3) in the second proviso by—

(A) striking out "wife" and inserting in lieu thereof "spouse"; and

(B) striking out "husband" and inserting in lieu thereof "deserting enterer spouse".

SEC. 259. The Act entitled "An Act for the protection of homestead settlers who enter the military or naval service of the United States in time of war", approved June 16, 1898 (30 Stat. 473; 43 U.S.C. 240) is amended by—

(1) inserting after "his" each place it appears the following: "or her"; and

(2) inserting after "he" each place it appears "or she".

SEC. 260. The Act entitled "An Act to allow credit in connection with homestead entries to widows of persons who served in certain Indian wars", approved March 3, 1933 (47 Stat. 1424; 43 U.S.C. 243a) is amended by striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

SEC. 261. Section 2293 of the Revised Statutes (43 U.S.C. 255) is amended by—

(1) striking out "himself" and inserting in lieu thereof "himself or herself";

(2) striking out "he" and inserting in lieu thereof "the person"; and

(3) striking out "wife" and inserting in lieu thereof "spouse".

SEC. 262. Section 2305 of the Revised Statutes (43 U.S.C. 272) is amended—

(1) in the matter before the first semicolon by adding after "he" the following: "or she";

(2) in the clause after the first semicolon by striking out "his homestead for a period of at least one year after he shall have commenced his improvements" and inserting in lieu thereof "his or her homestead for a period of at least one year after the improvements were commenced";

(3) by striking out the proviso and inserting in lieu thereof the following: "*Provided*, That in every case in which a settler on the public land of the United States under the homestead laws died while actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the war with Spain or the Philippine insurrection the settler's surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, may proceed forthwith to make final proof upon the land so held by the deceased soldier and settler, and that the death of such soldier while so engaged in the service of the United States shall, in the administration of the homestead laws, be construed to be equivalent to a performance of all requirements as to residence and cultivation for the full period of five years, and shall entitle the surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, to make final proof upon and receive Government patent for said land; and that upon proof produced to the officers of the proper local land office by the surviving spouse, if unmarried, or in the case of the surviving spouse's death or marriage, then the minor orphan children or their legal representatives, that the applicant for patent is the surviving spouse, if unmarried, or in case of the surviving spouse's death or marriage, the orphan children or their legal representatives, and that such soldier, sailor, or marine died while in the service of the United States as hereinbefore described, the patent for such land shall issue."

SEC. 263. (a) Section 2307 of the Revised Statutes (43 U.S.C. 278) is amended by—

(1) striking out "his widow" and inserting in lieu thereof "the surviving spouse"; and

(2) striking out "entrywoman" and inserting in lieu thereof "enterer".

(b) Section 2304 of the Revised Statutes (43 U.S.C. 271) is amended by striking out "after locating his homestead and filing his declaratory statement within which to make his entry and commence his settlement and improvement." and inserting in lieu thereof "after locating a homestead and filing a declaratory statement within which to make entry and commence settlement and improvement of the land.".

MISCELLANEOUS

SEC. 264. Section 604(a)(7) of title 28, United States Code, is amended by striking out "widows" and inserting in lieu thereof "surviving spouses".

SEC. 265. Section 2 of the Act of August 16, 1941 (55 Stat. 623 chapter 357; 42 U.S.C. 1652) is amended in subsection (b) by—

(1) striking out "surviving wife" the first place it appears and inserting in lieu thereof "the surviving spouse";

(2) striking out "surviving wife" the second place it appears and inserting in lieu thereof "surviving spouse"; and

(3) striking out "his option" and inserting in lieu thereof "his or her option".

SEC. 266. (a) Section 1981 of the Revised Statutes (42 U.S.C. 1986) is amended by—

(1) striking out "his legal representatives" and inserting in lieu thereof "his or her legal representatives"; and

(2) striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse".

(b) Section 4 of the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes" (84 Stat. 1863, 33 U.S.C. 857-4) is amended—

(1) in subsection (a) by striking out "enlisted men" and inserting in lieu thereof "enlisted members"; and

(2) in subsection (c) by striking out "their widows" and inserting in lieu thereof "the surviving spouses of such members".

(c) Section 222 of the National Housing Act (12 U.S.C. 1715m), is amended—

(1) by striking out "servicemen" each place it appears and inserting in lieu thereof "service members";

(2) by striking out "serviceman" each place it appears and inserting in lieu thereof "service member";

(3) by inserting "or her" after "his" each place it appears;

(4) in subsections (a) and (c), by striking out "him" each place it appears and inserting in lieu thereof "such Secretary"; and

(5) in subsection (g), by—

(A) striking out "serviceman's" each place it appears and inserting in lieu thereof "service member's";

(B) striking out "surviving widow" and inserting in lieu thereof "surviving spouse"; and

(C) striking out "widow" each place it remains and inserting in lieu thereof "surviving spouse".

(d) Section 2 of the Act of July 5, 1946, commonly known as the Trademark Act of 1946 (15 U.S.C. 1052), is amended in subsection (c) by—

(1) striking out "his written consent" and inserting in lieu thereof "the written consent of such individual";

(2) striking out "his widow" and inserting in lieu thereof "the surviving spouse of such President"; and

(3) striking out "the widow" and inserting in lieu thereof "such surviving spouse".

(e) Section 5572 of the Revised Statutes (48 U.S.C. 1413) is amended in the first sentence by striking out "his widow, heir, executor, administrator, or assigns" and inserting in lieu thereof "the surviving spouse, heir, executor, or administrator, or assigns of the discoverer".

(f) Section 5574 of the Revised Statutes (48 U.S.C. 1415) is amended in the second sentence by striking out "his widow, heir, executor, administrator, or assigns" and inserting in lieu thereof "the surviving spouse, heir, executor, administrator, or assigns of the discoverer".

(g) Section 5577 of the Revised Statutes (48 U.S.C. 1418) is amended by—

(1) striking out "his discretion" and inserting in lieu thereof "the discretion of such President"; and

(2) striking out "his widow, heir, executor, administrator, or assigns" and inserting in lieu thereof "the surviving spouse, heir, executor, administrator, or assigns of the discoverer".

SAINT ELIZABETHS HOSPITAL

Sec. 267. (a) Section 4839 of the Revised Statutes (24 U.S.C. 165) is amended—

(1) by striking out "he" each place it appears in the second sentence;

(2) by inserting "or her" after "his" in the second sentence;

(3) by striking out "and, in the case of a male pensioner, his wife, minor children, and dependent parents, or, if a female pensioner, her minor children, if any," in the last sentence before the proviso and inserting in lieu thereof "and the spouse, minor children, and dependent parents of the pensioner,";

(4) by striking out "shall, if a female pensioner, be paid to her minor children, and, in the case of a male pensioner, be paid to his wife, if living; if no wife survives him, then to his minor children; and in case there is no wife" in the last sentence before the proviso and inserting in lieu thereof "shall be paid to the spouse of the pensioner, if living, or if no spouse survives the pensioner, then to the minor children of the pensioner; and in case there is no spouse";

(5) by inserting "or her" before "credit at said home" in the proviso;

(6) by striking out "his said transfer" in the proviso and inserting in lieu thereof "the transfer";

(7) by striking out "be transferred with him" in the proviso and inserting in lieu thereof "also be transferred";

(8) by striking out "placed to his" in the proviso and inserting in lieu thereof "placed to the pensioner's";

(9) by striking out "his return from said hospital" in the proviso and inserting in lieu thereof "the pensioner's return from such hospital"; and

(10) by inserting "or her" before "credit at said hospital" in the proviso.

(b) The third clause of section 4843 of the Revised Statutes (24 U.S.C. 191) is amended by striking out "Men" and inserting in lieu thereof "Persons".

FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

SEC. 268. (a) Section 203 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 843) is amended—

(1) in subsection (a)—

(A) by striking out "commencement of his employment" in the second sentence and inserting in lieu thereof "the commencement of employment";

(B) by striking out "he" the first place it appears in the second sentence and inserting in lieu thereof "the worker";

(C) by inserting "or she" after "he" the second place it appears in the second sentence;

(D) by inserting "or her" after "his" in the fourth sentence; and

(E) by striking out "advise him of his rights" in the fifth sentence and inserting in lieu thereof "advise the miner of the miner's rights";

(2) in subsection (b)—

(A) by striking out "from his position" each place it appears in paragraphs (1) and (2);

(B) by striking out "him" in paragraph (3) and inserting in lieu thereof "the miner"; and

(C) by striking out "his" in paragraph (3); and

(3) by striking out "him" in the first sentence of subsection (c) and inserting in lieu thereof "the miner"; and

(4) by striking out "such miner" in the first sentence of subsection (d) and all that follows through the end of the sentence and inserting in lieu thereof "such miner, with the consent of the surviving spouse or, if there is no such surviving spouse, then with the consent of the surviving next of kin.".

(b) Section 402 of such Act (30 U.S.C. 902) is amended—

(1) in subsection (a)(2)—

(A) by inserting "or husband" after "wife" in the first sentence;

(B) by striking out "her" the first place it appears in the first sentence;

(C) by striking out "husband" in the first sentence and inserting in lieu thereof "spouse";

(D) by inserting "his or" before "her" each place it appears (after the amendment made by subparagraph (B));

(E) by inserting "or 'husband' " after " 'wife' " in the second sentence; and

(F) by striking out "The term 'wife' also includes a 'divorced wife' " in the third sentence and inserting in lieu thereof "The terms 'wife' and 'husband' also include a 'divorced wife' and a 'divorced husband', respectively.";

(2) in subsection (e)—

(A) by striking out "The term 'widow' included the wife" in the first sentence and inserting in lieu thereof "The terms 'widow' and 'widower' include the spouse";

(B) by striking out "his" each place it appears and inserting in lieu thereof "the miner's";

(C) by inserting "or 'widower' " after " 'widow' " in the second sentence;

(D) by striking out "a 'surviving divorced wife' as defined in section 216(d)(2) of the Social Security Act" (42 U.S.C. 416(d)(2)) in the third sentence and inserting in lieu thereof "a 'surviving divorced wife' and 'a surviving divorced husband' as defined in paragraphs (2) and (5), respectively, of section 216 of the Social Security Act" (42 U.S.C. 416);

(E) by inserting "his or" before "her" each place it appears in the third sentence; and

(F) by striking out "Such term also includes" in the third sentence and inserting in lieu thereof "Such terms also include"; and

(3) by striking out "widow" each place it appears in the third sentence of subsection (g) and inserting in lieu thereof "the miner's widow or widower".

(c) Section 411 of such Act (30 U.S.C. 921) is amended—

(1) in subsection (a)—

(A) by striking out "him" and inserting in lieu thereof "the Secretary"; and

(B) by striking out "his"; and

(2) in subsection (c)—

(A) by striking out "his" in paragraph (1) and insertng in lieu thereof "the";

(B) by striking out "his" in the first sentence of paragraph (2);

(C) by striking out "he" each place it appears in paragraph (3) and inserting in lieu thereof "the miner";

(D) by striking out "his" each place it appears in paragraph (3) and each place it appears in the first sentence of paragraph (4);

(E) by striking out "widow's," in the first sentence of paragraph (4) (after the amendment made by subparagraph (D)) and inserting in lieu thereof "or the miner's widow's, widower's";

(F) by striking out "he" in the first sentence of paragraph (4) and inserting in lieu thereof "the miner";

(G) by inserting "or husband's" after "wife's" in the second sentence of paragraph (4);

(H) by striking out "he" in the third sentence of paragraph (4) and inserting in lieu "the Secretary"; and

(I) by striking out "his" in the fourth sentence of paragraph (4) and inserting in lieu thereof "such miner's".

(d) Section 412 of such Act (30 U.S.C. 922) is amended—

(1) in subsection (a)—

(A) by striking out "his widow" in paragraph (2) and inserting in lieu thereof "the widow or widower".

(B) by striking out "he were" in paragraph (2);

(C) by striking out "his" each place it appears in the first sentence of paragraph (3);

(D) by inserting "or widower" after "widow" each place it appears n paragraph (3);

(E) by striking out "her" in the first sentence of paragraph (3) and inserting in lieu thereof "the widow's or widower's";

(F) by striking out "he" in the first sentence of paragraph (3) and inserting in lieu thereof "the child";

(G) by inserting "or she" after "he" in the first proviso of paragraph (3);

(H) by striking out "his" the first place it appears in the first sentence of paragraph (5);

(I) by striking out "at the time of his death" each place it appears in the first sentence of paragraph (5) (after the amendment made by subparagraph (H));

(J) by striking out "a widow or a child" each place it appears in the first sentence of paragraph (5) and inserting in lieu thereof "a widow, widower, or child";

(K) by striking out "a widow, child, or parent" each place it appears in the first sentence of paragraph (5) and inserting in lieu thereof "a widow, widower, child, or parent";

(L) by striking out "at the time of his or her death" each place it appears in the first sentence of paragraph (5);

(M) by striking out "a brother only if he is—" in the fourth sentence of paragraph (5) and inserting in lieu thereof "a brother or sister only if the brother or sister is—";

(N) by striking out "who is," after "(2)" in paragraph (5); and

(O) by striking out "him" in paragraph (6) and inserting in lieu thereof "the Secretary"; and

(2) by striking out "his widow," each place it appears in the first sentence of subsection (b) and inserting in lieu thereof "the miner's widow, widower,".

(e) Section 413 of such Act (30 U.S.C. 923) is amended—

(1) in subsection (b)—

(A) by striking out "he uses" in the first sentence and inserting in lieu thereof "used";

(B) by striking out "his wife's" in the second sentence and inserting in lieu thereof "the wife's or husband's"; and

(C) by striking out ", widow," in the ninth sentence and inserting in lieu thereof "or the miner's widow, widower,"; and

(2) by inserting "or her" after "his" in subsection (c).

(f) Section 414 of such Act (30 U.S.C. 924) is amended—

(1) in subsection (a)—

(A) by inserting "or widower" after "widow" in paragraph (1);

(B) by striking out "her husband" and inserting in lieu therefor "the miner" in paragraph (1); and

(C) by striking out "his" in paragraph (2)(C) and inserting in lieu thereof "the claimant's"; and

(2) in subsection (e)—

(A) by inserting "widower," after "widow," in the matter preceding clause (1); and

(B) by striking out "his" in clause (1) and inserting in lieu thereof "the miner's".

(g) Section 421 of such Act (30 U.S.C. 931) is amended—

(1) by inserting "widowers," after "widows," in subsection (a); and

(2) in subsection (b)(2)—

(A) by striking out "if he finds" in the matter preceding subparagraph (A) and inserting in lieu thereof "upon finding"; and

(B) by striking out "by him" in subparagraph (F).

LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT

SEC. 269. Section 9 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 909), as renamed by sector 27(d)(1) of the Longshore and Harbor Workers' Compensation Act Amendments of 1984 (Public Law 98-426; 98 Stat. 1654), is amended—

(1) by striking out "dependent" in subsection (b);

(2) by striking out "his compensation" and inserting in lieu thereof "such child's compensation" in subsection (b);

(3) by striking out "his discretion" and inserting in lieu thereof "the discretion of such Commissioner" in subsection (b);

(4) by striking out "dependent husband" in subsection (c) and inserting in lieu thereof "widower"; and

(5) by striking out "wife" each place it appears in subsection (g) and inserting in lieu thereof "spouse".

CONSERVATION

SEC. 270. The last proviso of the subparagraph entitled "Federal Aid in Wildlife Restoration" under the paragraph "Fish and Wildlife Service" of the first section of the Act entitled "An Act making appropriations for the Department of the Interior for the fiscal year ending June 30, 1943, and for other purposes", approved July 2, 1942 (56 Stat. 557; 16 U.S.C. 754) is amended by striking out "per man per day" and inserting in lieu thereof "per day".

MISCELLANEOUS

SEC. 271. Section 1 of title 1, United States Code, is amended by striking out the clause beginning "words importing the masculine gender" and inserting in lieu thereof "words importing the masculine or feminine gender include the other as well".

BENEFITS FOR INTERNEES

SEC. 272. Section 2004 of title 50, Appendix, United States Code, is amended—

(1) In subsection (d) by—

(A) inserting "or her" after "his";

(B) striking out "husband" each place it appears in paragraphs (1), (2) and (3) and inserting in lieu thereof "widower"; and

(C) striking out "husband" in paragraph (4) and inserting in lieu thereof "widow, widower";

(2) In subsection (f)7) by—

(A) inserting "or widower" after "widow"; and

(B) inserting "herself or" before "himself"; and

(3) in subsections (g)(4) and (i)(4) by—

(A) inserting "or her" after "his";

(B) striking out "husband" in subparagraph (A) and inserting in lieu thereof "widower"; and

(C) striking out "dependent husband" each place it appears in subparagraphs (B) and (C) and inserting in lieu thereof "widower".

SPOUSES OF FORMER PRESIDENTS

SEC. 273. The Act of August 25, 1958, as amended (72 Stat. 838; 3 U.S.C. 102 Note), is amended in subsection (e) by—

(1) striking out "widow" each place it appears and inserting in lieu thereof "surviving spouse": and

(2) inserting "he or" before "she".

SEC. 274. (a) Section 211(a)(5)(A) of the Social Security Act (42 U.S.C. 411(a)(5)(A)) is amended by striking out all after "gross income and deductions" the second place it appears and inserting in lieu thereof "of the spouse who is carrying on the trade or business".

(b) Section 210(a)(3)(A) of the Social Security Act (42 U.S.C. 210(a)(3)(A)) is amended by—

(1) striking out "Service performed by an individual in the employ of his spouse, service" and inserting in lieu thereof "Service"; and

(2) striking out "his father" and inserting in lieu thereof "such child's father".

(c) Section 3121(b)(3)(A) of the Internal Revenue Code of 1954 is amended—

(1) by striking out "service performed by an individual in the employ of his spouse, and"; and

(2) by striking out "his father" and inserting in lieu thereof "such child's father".

SEC. 275. Subsection (b) of section 245 of title 18, United States Code, is amended by—

(1) redesignating paragraphs (3) through (5) as paragraphs (4) through (6); and

(2) inserting a new paragraph after paragraph (2) to read as follows:

"(3) any person because of such person's sex, in violation of such person's right, that in fact is federally secured, not to be subject to discrimination on that account, and because such person is or has been participating, or in order to intimidate any person from participating, in any benefit or activity described in paragraph (2); or".

TITLE IV—EFFECTIVE DATE

SEC. 281. Except as otherwise provided, the amendments made by this title shall become effective upon the date of enactment.

AMENDMENT NO. 1387

At the appropriate place, add the following:

SEC. . Section 706 of title 2, United States Code, is amended by inserting after the words "not to exceed $5,000." and before the words "No action" the following: This civil penalty shall be the exclusive penalty for such knowing and willful violation of Section 702 of this title, notwithstanding any other provision of the United States Code, including Section 1001 of Title 18. This section shall be deemed to be effective on the date of enactment of the Ethics in Government Act.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER, AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public that the hearing scheduled on Monday, December 9, 1985, at 2 p.m. before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources has been cancelled. This hearing may be rescheduled next session.

The purpose of this hearing was to receive testimony on S. 1330, a bill to amend section 504 of the Alaska National Interest Lands Conservation Act to allow expanded mineral exploration of the Admiralty Island National Monument in Alaska.

For further information regarding this hearing, please contact Mr. Tony Bevinetto of the subcommittee staff at 202-224-5161.

ADDITIONAL STATEMENTS

POP INTO A PARK

● Mr. WILSON. Mr. President, I would like to take this opportunity to call attention to a unique new park program in the State of California particularly designed to bring elementary and inner-city school children into the State parks for the purpose of educating and heightening awareness of the enjoyment to be had in our natural parklands.

The California State Park System has mounted an extensive campaign to boost awareness of its more than 260 State parks, beaches, and wilderness areas. This program represents an unprecedented move by the governmental agency to join forces with the private sector in increasing park visits off-season—particularly by school-age children.

Pacific Bell and General Foods are the corporate sponsors of "Pop into a Park." Elements of the effort include free or reduced admission, an in-school Park Education Program for elementary age students, a guide to California State Parks, and statewide telephone "hot lines," which offer recorded information concerning the program.

Students from more than 5,000 public and private schools in inner-city and rural areas were provided with kits on California's history and ecology. This was supplemented by field trips, four to State parks, during which Pacific Bell volunteers assisted park rangers in leading students through activities.

Such public-private sector cooperation to promote a worthy cause is an example that could be followed in other States. In the case of California, this program means that hundreds of children had the opportunity to enjoy and learn about some of the Nation's most beautiful resources.

SHOAH

● Mr. ARMSTRONG. Mr. President, on Tuesday, December 10, at 11 a.m., broadcasting of the film "Shoah" will begin on U.S. Capitol TV cable system—channel 6—and will continue until 4 p.m. on that same day. The broadcast will continue at 11 a.m. on Thursday, December 12 and conclude by 4 p.m.

This is a 9½-hour film. A cassette copy of the film has been loaned to the Republican Policy Committee for a short period of time and we have scheduled this showing in the only block of time immediately available on the closed circuit network.

I realize this is a busy week, but urge Senators, staff, and anyone else with access to the Capitol TV system to watch as much of the film as time permits. Columnist George Will declared

"Shoah" the "noblest use to which cinema has been put, ever." Washington Post film critic Paul Attanasio wrote: "Shoah is the film event of the year—in some sense, the film event of the century." I ask unanimous consent that Mr. Will's and Mr. Attanasio's articles be printed here in the RECORD for the benefit of those who would like to read more about this remarkable film.

The article follows:

CONTINUING ATROCITY AND CONTINUING RESISTANCE

There has never been anything like it, or its subject, so there is something flat about saying that "Shoah" is the finest film ever. So say this: it is the noblest use to which cinema—the technology, the techniques—has been put, ever.

Claude Lanzmann's 9½-hour masterpiece, "Shoah" (the Hebrew word for annihilation), contains not a frame from the '40s. It is an elicitation of memories of the Holocaust and it proves that the unspeakable is not inexpressible.

No subject is too large or lurid to be encompassed by words well chosen. And when words are joined with pictures that do not subordinate the words to visual values, even plain words are set like diamonds in platinum.

Cinema rarely rises from a craft to an art. Usually it just manufactures sensory blizzards for persons too passive to manage the active engagement of mind that even light reading requires. Cinema, with its enervating bath of sights and sounds, usually is a medium for modest attention spans. But, paradoxically, "Shoah," a near-perfection of cinematic art, is brilliant because it is an active of cinematic modesty. It uses pictures—usually of people plainly framed or landscapes slowly panned—as a sort of silent music behind the words.

Rhetorical flourishes are few and far between. (A death-camp survivor says: "If you could lick my heart, it would poison you.") There are some moments of savage illumination, as when an SS veteran replies to a question about how many were killed at a particular place: "Four something—four hundred thousand or forty thousand." As eloquent as even the most eloquent words are the silences, the pauses, the flickering expressions as facial muscles register the struggle for composure.

The most stunning episode in this shattering film lasts about five minutes and involves "only" the talk of a barber now in Israel. While he clips the hair of a customer he talks, never needing to raise his voice to be heard over the small sounds of a familiar ambience. He describes his duties in Treblinka, cutting hair from naked women on the threshold of the gas chamber, and the day a fellow barber saw his wife and sister enter the room.

The film's recurring image is of trains rolling across Poland's flat terrain. There is a sinisterness, a menace in the mere clackety-clack of wheels rolling down a single track between lovely pines toward a shimmering clearing, a camp. A locomotive engineer, old now, his face the texture of elm bark, tells how he was with vodka to enable him to push to unloading platforms the freight cars packed with Jews dying of thirst.

On reviewer got it exactly right when he described Lanzmann as a "cinematic pointillist." He works in minutiae that, cumulatively, become portentous. He asks a question such as, "Was this road asphalted then?" and the person questioned begins to talk and a narrative builds, detail piled upon detail, until you have hell in a monotone, and it is the more hellish for its matter-of-factness.

One person, after seeing "Shoah," wrote to Lanzmann that it was the first time he had heard the cry of an infant in the gas chamber. He had not, of course. What he had heard was the quiet description by an Auschwitz survivor of the way bodies were jumbled when the gas-chamber doors opened, and what that jumble of flesh and blood and vomit and excrement told about the final minutes in the dark when fathers lost their grips on their sons and the strong climbed over the weak as the gas fumes rose.

Here is a task—a duty—for Jewish and other organizations: subsidize the sale of cassettes of this film. No church or school should be without it. Lanzmann's little questions ("What color was the truck?") wind up answering one big question: What was it like? The answer to that contains the answer to another big question, the question that is the title of the only other film Lanzmann has made: "Why Israel?"

The Nazi project was to erase European Jewry—not just kill but erase traces. So the Nazis ground to dust the bones that would not burn and threw the dust in rivers and lakes. "Shoah," like Solzhenitsyn's "Gulag," is an act of continuing resistance to a continuing atrocity.

Continuing? Yes, it is an assertion of memory against a program of erasure, a program that will not be fulfilled until memory fades and indifference reigns. Lanzmann cites a philosopher's statement that Europe's massacred Jews "are not just of the past, they are the presence of an absence." Wherever "Shoah" is seen, and for as long as it lasts, they are present.

"SHOAH": THE COURAGE OF REMEMBRANCE

(By Paul Attanasio)

There I go again, the old song and dance—Adolf Eichmann, in his cell in Jerusalem, 1961

NEW YORK.—We think of it first as numbers, too large to understand: 6 million Jews exterminated in merely three years. Break it down further: 3 million Polish Jews, 105,000 Dutch, 300,000 Rumanian, 150,000 Hungarian, 54,000 Greek . . . still too large. Today, 300 dead in a plane crash leads the evening's news; during the peak period at Treblinka, one of the Nazis' six death camps, 12,000 to 15,000 Jews could be gassed and cremated in a single day. Or, with Nazi obliquity, "processed."

Next, we think of images. The photographs, the films, taken by the Allied soldiers who liberated the camps; the documentary footage shot by George Stevens and Alfred Hitchcock. The Nazis themselves assiduously recorded their handiwork, sometimes filming directly into the gas chambers, film that is slowly becoming available. The Holocaust has become the stuff of melodramas (Stanley Kramer's "Judgment at Nuremberg") and TV mini-series.

The numbers are just numbers, the photographs photographs, and instead of bringing us closer to what happened, they push us away. You could almost see it as the final victory of the Nazi strategy; *keep it abstract.* Eichmann proudly called himself "an idealist"; their rhetoric was full of bastardized philosophy. Göring's phrase, "the Final Solution of the Jewish Question," sounds like the title of a seminar paper. Corpses were referred to as *Figuren* (puppets) or *schmattes* (rags); the victims in the gas vans were "the merchandise," the gas chambers "showers."

Now comes "Shoah," Claude Lanzmann's 561-minute documentary that is showing at the Cinema Studio in New York, and that, if our local exhibitors have any conscience, will shortly be booked here. "Shoah" is the film event of the year—in some sense, the film event of the century; it's one of the few films that can be said to be *necessary,* restoring that meaning that has been lost, as the Holocaust became a metaphor, as the photographs came to evoke not Auschwitz and Treblinka and Bergen-Belsen, but only other photographs. Produced over 10 years, transcribed in a book (Pantheon, $11.95), "Shoah" (the title is the Hebrew for "annihilation") is a supreme act of artistic courage, remembering what cannot be remembered and what must be remembered.

"Poetry," Wallace Stevens once remarked, "seeks out the relation of men to facts." "Shoah" includes no archival footage, little narration; it relies instead on interviews Lanzmann conducted with Holocaust survivors, with Poles who lived and worked around the camps, and with former SS and Nazi officials. And always, Lanzmann asks not for impressions but specifics: How fast did the gas vans travel? What color were they? Was the road asphalted? How many guards? What was the temperature?

In between, Lanzmann takes his camera back to the original sites, and the interviews are intercut with, and sometimes overlaid upon, these shots: pans across the landscape of Treblinka and up to its mute Holocaust memorial; across the pine trees the Nazis planted to hide what happened at Chelmno; long tracking shots up the railway ramp to Auschwitz, which alone among the camps remains largely intact; shots of houses in Polish towns where the Jews lived, of the synagogue in Grabow that is now a furniture store, of the church in Ehelmno where they awaited the gas vans; and throughout, trains lumbering across the Polish landscape, trains very much like the ones that brought the Jews to their deaths.

The structure of "Shoah" isn't linear, but concentric; the movie returns to its themes, colors and enlarges them; the images of the trains accumulate to a crescendo. We hear pieces of songs the victims sang, as well as a fatuous ditty composed for the SS at Treblinka:

Looking squarely ahead, brave and joyous,
at the world,
the squads march to work.
All that matters to us now is Treblinka . . .
We know only the word of our commander,
we know only obedience and duty,
we want to serve, to go on serving,
until a little luck ends it all. Hurray!

Our minds fill with screaming; we see and smell the gas rising from the mass graves in the August heat, feel the bitter cold as the victims, naked, awaited execution (with typical efficiency, the Nazis used the clothes). With Lanzmann, we pace off the distances, from the station to the camp, from the ramp to the crematoria. The effect is to allow you to reimagine the Holocaust, free of metaphor. When Hannah Arendt, trafficking in abstractions, distilled the Holocaust to "the banality of evil," she was obviously confusing it with the banality of her conclusions; "Shoah" moves in an opposite direction—immersing you in the most banal

details, it leads you to a place where "banal" is an obscenity.

In "Shoah," the simplest objects become infused with menace, and with a horrible sense of loss. A railway sign is not just a railway sign when it reads "Treblinka." Perhaps the film's most haunting image is a slow pan across a pile of suitcases, some battered, some chic, all brought by Jews deluded that they were merely being "resettled" (yet another Nazi euphemism).

And the working of the most natural human process—the function of memory—becomes an act of unspeakable courage, both for the survivors and for Lanzmann, who continually prods them to continue when his interview subjects break down and plead with him to stop. It's hard to talk about opening the doors to a gas van and watching your wife and children tumble out, dead; harder still when (as in the case of many survivors), you survived because you were part of the "special detail," Jews who worked in the camps.

"The trainloads from the Balkans brought us to a terrible realization," says Richard Glazar, one of "Shoah's" subjects. "We were the workers in the Treblinka factory, and our lives depended on the whole manufacturing process, that is, the slaughtering process at Treblinka."

Lanzmann takes this carmera into the barbershop of Abraham Bomba, a survivor of Treblinka, and the characteristic movement of "Shoah" takes place: first, recognition of the concrete detail, a haircut, utterly routine; slowly, recognition that in the camps, a haircut was a prelude to death, since women's hair, like the clothing, like gold dental fillings, was harvested by the Nazis.

Bomba, a slight man with a face like a crumpled sack, talks dispassionately of his role at Treblinka, describing in detail the room where the haircuts took place, the number of barbers, the absence of mirrors, the physical relation of the room to the gas chambers. And then the following colloquy takes place:

"Some of the women that came in on a transport from my town of Czestochowa, I knew a lot of them. I knew them; I lived with them in my town. I lived with them in my street, and some of them were my close friends. And when they saw me, they started asking me, Abe this and Abe that—'What's going to happen to us? What could you tell them? What could you tell?

"A friend of mine worked as a barber—he was a good barber in my home town—when his wife and his sister came into the gas chamber . . . I can't. It's too horrible. Please."

"We have to do it. You know it."

"I won't be able to do it."

"You have to do it. I know it's very hard. I know and I apologize."

"Don't make me go on please."

"Please. We must go on."

"I told you today it's going to be very hard. They were taking that in bags and transporting it to Germany."

"Okay, go ahead. What was his answer when his wife and sister came?"

"They tried to talk to him and the husband of his sister. They could not tell them this was the last time they stay alive, because behind them was the German Nazis, SS men, and they knew that if they said a word, not only the wife and the woman, who were dead already, but also they would share the same thing with them. In a way, they tried to do the best for them, with a second longer, a minute longer, just to hug them and kiss them, because they knew they would never see them again."

The idea that an entire culture, an entire nation of Europe, however dispersed, could be erased in the space of three years (far less than it took Lanzmann to make his film), boggles the mind. The great danger is to make the sufferings of millions a prop to personal umbrage: Yale psychologist Robert Jay Lifton has had the remarkable presumption to call himself a survivor, simply by virtue of studying the subject; even the peregrinations of Elie Wiesel, though he's a survivor himself, sometimes seem, however unfairly, like a form of emotional profiteering.

Lanzmann avoids this pitfall. A character himself in the film, he's a vivid presence in a leather jacket, dangling a ubiquitous cigarette—with his big black glasses, shock of black hair and thick sideburns, he looks a little like David Halberstam. He includes segments of casual chat with his subjects, and while this does nothing to advance the narrative, it affords a fascinating glimpse of how he seduces them (particularly the Nazis) into talking. And for the most part, he keeps his own indignation, and the obsessiveness that drove him to shoot 350 hours of film (and go into debt to the tune of half a million), in the background. He's almost wholly at the service of his story.

Still, the question remains: Why did the Holocaust happen? For "Shoah," the menas were new (the technology is explained in excruciating detail), the end old. The Poles interviewed in the film have learned nothing, though they have seen firsthand what anti-Semitism leads to. Standing on the steps of the church in Chelmno that served as the waiting room for the gas vans, they suggest that the Holocaust occurred because the Jews were rich, even because the Jews had to expiate their role in the Crucifixion.

Standing among them, his eyes betraying nothing but registering all, is Simon Srebnik. An SS bullet missed his vital brain centers, and he became one of two survivors, out of 400,000, to survive the annihilation at Chelmno.

In other interviews, Polish contempraries of Srebnik's suggest that the Jews smelled bad, that "Jewish women only thought of their beauty and clothes," that "above all, they were dishonest," that "all Poland was in the Jews' hands."

It is tempting to think that the Holocaust was the result of historical forces—of nationalism, of class struggle, even of the historical suffering of the Jewish people. In some sense, it was the natural outgrowth of the development in the 20th century of the "mass man." Lanzmann, implicitly, rejects such an explanation as an exculpation. In "Shoah," the Holocaust wasn't the crime of totalitarianism against humanity; it was crimes committed by men against other men.

Relentlessly, he returns the focus to the individual. He brings us to a Munich beer hall, and attempts to engage the iron-face bartender in conversation. The bartender refuses, puts on thick glasses that hide his face, walks away. Lanzmann produces a photograph and baits him with it:

"Do you recognize this man? No? Christian Wirth? Mr. Oberhauser! Do you remember Belzec? No memories of Belzec? Of the overflowing graves? You don't remember?"

He gets nothing from former SS officer Joseph Oberhauser, but the purpose has been accomplished: He's put a face on the bureaucracy, made the evil personal.

With the other Nazis, Lanzmann is more cagey. The interviews are shot with a hidden video camera, and Lanzmann poses as a "Dr. Sorel" (the name of the French right-wing theorist is decidedly pointed), a historian sympathetic to the Nazis. He draws information out of them, but the effect, again, is the same: these aren't cogs in a machine. They are individuals, and their guilt is individual.

He accomplishes the same thing, from the other end, with the survivors; "Shoah" isn't about The Suffering of the Jewish People, but the suffering of individuals, individually remembered. The movie is not about the Holocaust, exactly, but about memory: it is memory that is real, memory that must be cherished.

The memory of Filip Muller, a survivor of Auschwitz:

"The violence climaxed when they tried to force the people to undress. A few obeyed, only a handful. Most of them refused to follow the order. Suddenly, like a chorus, they all began to sing. The whole 'undressing room' rang with the Czech national anthem, and the *Hatikvah*. That moved me terribly, that . . .

"That was happening to my countrymen, and I realized that my life had become meaningless. Why go on living? For what? So I went into the gas chamber with them, resolved to die. With them. Suddenly, some who recognized me came up to me. For my locksmith friends and I had sometimes gone into the family camp. A small group of women approached. They looked at me and said, right there in the gas chamber . . .

"One of them said: "So you want to die. But that's senseless. Your death won't give us back our lives. That's no way. You must get out of here alive, you must bear witness to our suffering, and to the injustice done to us."

WEEKLY BUDGET SCOREKEEPING REPORT

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report for the week of December 2, 1985, prepared by the Congressional Budget Office in response to section 5 of the First Budget Resolution for fiscal year 1986. This report also serves as the scorekeeping report for the purposes of section 311 of the Congressional Budget Act.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., December 9, 1985.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1986. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, S. Con. Res. 32. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32 and is current through December 6, 1985. The report is submitted under Section 308(b) and in aid of Section 311(b) of the Congressional Budget Act.

Since my last report the Congress has cleared for the President's signature the Textile and Apparel Trade Enforcement Act, 1985 (H.R. 1562), the Commerce, State,

Justice Appropriation, 1986 (H.R. 2965), and the Labor, Health and Human Services, and Education Appropriation, 1986 (H.R. 3424), changing budget authority, outlay, and revenue estimates.

With best wishes,

Sincerely,

RUDOLPH G. PENNER.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE 99TH CONGRESS, 1ST SESSION AS OF DEC. 6, 1985

[Fiscal year 1986, in billions of dollars]

	Budget authority	Outlays	Revenues	Debt subject to limit
Current Level [1]	1,067.3	983.6	792.9	1,902.0
Budget Resolution, S. Con. Res. 32	1,069.7	967.6	795.7	[2] 2,078.7
Current Level is:				
Over resolution		16.0		
Under resolution by	2.4		2.8	176.7

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for this approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level excludes the revenue and direct spending effects of legislation that is in earlier stages of completion, such as reported from a Senate Committee or passed by the Senate. Thus, savings from reconciliation action assumed in S. Con. Res. 32 will not be included until Congress sends the legislation to the President for his approval. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] The current statutory debt limit is $1,903.8 billion.

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 1ST SESSION AS OF DEC. 6, 1985

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			792,800
Permanent appropriations and trust funds	717,617	631,009	
Other appropriations		185,348	
Offsetting receipts	[1] 162,006	[1] 162,006	
Total enacted in previous sessions	555,610	654,351	792,800
II. Enacted this session:			
Famine Relief and Recovery in Africa (Public Law 99-10)		421	
Federal Supplemental Compensation Phaseout (Public Law 99-15)			10
Appropriations for the MX Missile (Public Law 99-18)		368	
Contemporaneous Recordkeeping Repeal Bill (Public Law 99-44)			13
U.S.-Israel Free Trade Act (Public Law 99-47)			−8
Statue of Liberty-Ellis Island Coin Act (Public Law 99-61)	−15	31	
International Security and Development Cooperation Act (Public Law 99-83)	−25	−25	
Supplemental Appropriations Bill (Public Law 99-88)	36	3,138	
State Department Authorization (Public Law 99-93)			2
Emergency Extension Act of 1985 (Public Law 99-107)	−49	−230	210
Simplification of Imputed Interest Rules (Public Law 99-121)			−31
Health Professions Educational Assistance (Public Law 99-129)		−8	
Amendments-Special Defense Acquisition Fund (Public Law 99-139)	100		
Energy and Water Appropriations, 1986 (Public Law 99-141)	15,252	8,245	
Department of Defense Authorization Act, 1986 (Public Law 99-145)	280	−5	
Legislative Branch Appropriations, 1986 (Public Law 99-151)	1,599	1,385	
Temporary Debt Limit Increase (Public Law 99-155)	−34	−156	140
Agricultural Extension, Tobacco Provision (Public Law 99-157)	−20	−20	
HUD-Independent Agencies Appropriations, 1986 (Public Law 99-160)	56,909	36,247	
Offsetting receipts	−4,185	−4,185	
Military Construction Appropriations, 1986 (Public Law 99-167)	8,498	2,151	

FISCAL YEAR 1986, SUPPORTING DETAILS FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 99TH CONGRESS, 1ST SESSION AS OF DEC. 6, 1985—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
Total enacted this session	78,346	47,356	335
III. Continuing resolution authority:			
Continuing Appropriations, 1986 (Public Law 99-154)	348,779	212,985	
Offsetting receipts	−4,449	−4,449	
Total continuing resolution authority	344,330	208,536	
IV. Conference agreements ratified by both Houses:			
NASA Authorization Act of 1986 (H.R. 1714)		107	
Textile and Apparel Trade Enforcement Act, 1985 (H.R. 1562)			−200
Commerce, State, Justice Appropriations, 1986 (H.R. 2965)	11,926	9,711	
Offsetting receipts	−118	−118	
Labor, HHS, Education Appropriations, 1986 (H.R. 3424)	94,862	81,406	
Offset receipts	−19,816	−19,816	
Total conference agreements	86,853	71,291	−200
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Payment to the CIA retirement fund	10	10	
Claims, defense	7	3	
Payment to the foreign service retirement trust fund [2]	(1)	(1)	
Range improvements	1		
BLM: Miscellaneous trust fund	([1])		
Payment to air carriers, DOT	18	17	
Retired pay—Coast Guard	21	19	
Maritime, operating-differential subsidies		3	
BIA: Miscellaneous trust funds	([1])	([1])	
Retirement pay for PHS officers	3		
Medical facilities loan guarantee	3		
Payment to health care trust funds [2]	(907)	(907)	
Child nutrition programs	254	234	
Child support enforcement	3	3	
Advances to unemployment trust fund [2]	(51)	(51)	
Federal unemployment benefits and allowances	65	64	
Black lung disability trust fund	46	46	
Special benefits (disabled coal miners)	36	36	
Assistance payments	544	544	
Supplemental security income	52	52	
Veterans readjustment benefits	180	137	
Veterans pensions	10		
Payment to civil service retirement [2]	(214)	(214)	
National wildlife refuge fund	([1])	([1])	
Defense pay raise—military	925	897	
Total entitlements	2,179	2,066	
Total current level as of Dec. 6, 1985	1,067,319	983,599	792,935
1986 budget resolution (S. Con. Res. 32)	1,069,700	967,600	795,700
Amount remaining:			
Over budget resolution		15,999	
Under budget resolution	2,381		2,765

[1] Less than $500 thousand.

[2] Interfund transactions do not add to budget totals.

Note.—Numbers may not add due to rounding.●

EXTENSION OF THE TARGETED JOBS TAX CREDIT

● Mr. D'AMATO. Mr. President, I rise today to cosponsor S. 1250, legislation to extend the targeted jobs tax credit [TJTC] program until 1990. This measure was introduced by my distinguished colleague from Pennsylvania, Senator HEINZ. Without prompt action by Congress, this successful and cost-effective program will expire on December 31, 1985.

In fiscal year 1985, 623,000 TJTC jobs were created nationwide. This was an increase of 10.7 percent over fiscal year 1984's total of 563,000 TJTC jobs. This program has been widely used in many States including California, Texas, Florida, Ohio, Illinois, Missouri, Washington, Louisiana, Pennsylvanai, and New York. The State of New York has been the Nation's leader in using TJTC to create new jobs for economically disadvantaged individuals.

In 1985, 51,112 New York State workers found their jobs through this program—more than in any other State. These workers included economically disadvantaged youth, public assistance recipients, handicapped people, disadvantaged Vietnam veterans, and exoffenders. These people are now working because TJTC gave them a chance that otherwise wouldn't be there for them. This was an increase of 12.8 percent over the previous year's figure of 45,387 jobs.

Employers receive Federal tax crdits for each TJTC worker hired. The credits equal 50 percent of the first $6,000 in wages earned by a worker in the first year, and 25 percent of the first $6,000 of wages in the worker's second year of employment.

Employers also are permitted to claim a Federal tax credit equal to 85 percent of the first $3,000 in wages earned by eligible 16- and 17-year-olds hired for the summer. The result is that employers may pay the equivalent of 50 cents per hour, after calculating the tax credits, to a minimum wage, summer employee—but the young worker is still paid at least $3.35 per hour. TJTC was instrumental in the success of New York City's summer jobs program in 1985. About one-third of the 30,000 disadvantaged youth hired last summer were certified through TJTC.

The New York State Department of Labor, in testimony presented to the Senate Finance Committee, stated:

On an annual basis the payroll of the 51,000 New Yorkers hired under TJTC in fiscal 1985 probably was in the range of $400 to $450 million, and its rippling effect somewhere between $1.0 and $1.4 billion.

Moreover, those jobs went to people much more likely to be social liabilities than contributors because of the labor market barriers they usually face.

TJTC is not just a socially beneficial program, it makes good economic sense as well. Commissioner Lillian Roberts of the New York State Department of Labor has calculated that the gross national welfare savings that flow from TJTC are $418 million. These savings are greater than the entire $364 million cost of the program for all of the targeted groups.

Welfare savings of $51 million have been made by New York State in fiscal year 1985. As a result, the total 1985 net savings for TJTC, including pro-

gram costs, exceed $43 million in New York State alone. TJTC is not only a low-cost program, but it is socially beneficial in both monetary and human terms. TJTC pays for itself!

Mr. President, I believe that TJTC is one of our most effective job creation programs. We must not let it expire, and we must not let TJTC lose its momentum through costly interruptions in the continuity of its administration. I commend my friend, Senator HEINZ, for introducing this bill, and I urge the rest of my Senate colleagues to join me in cosponsoring and voting for this vital legislation, S. 1250.

CLEAN COAL TECHNOLOGY RESERVE

● Mr. HEINZ. Mr. President, as the Nation meets its energy needs in the future, ways must be found to expand the use of one of our most abundant domestic energy sources—coal—in a way that protects our other natural resources. Thus, it is important this year for Congress to provide funding for the Clean Coal Technology Reserve.

The Reserve is a Federal program supporting the cost-shared demonstration of technologies to burn coal cleanly. To be eligible to receive funding, a proposal would have to provide at least 50 percent private sector investment. The Appropriations Committee has approved funding for the Reserve over the next 4 years. It is very important that this concept of multiyear funding be retained. In this way the private sector will be given the confidence in the program necessary to offer substantial amounts of their own investment.

Coal is very important to my State of Pennsylvania. Coal provides three-fourths of Pennsylvania's electric utility consumption and more than a third of its industrial energy consumption. Furthermore, Pennsylvania is one of the Nation's leader in coal produciton with 24,500 coal miners hard at work. Much of Pennsylvania's coal, however, is high sulfur coal, raising environmental questions about its use. Fortunately, through the development of technologies to burn coal cleanly, the expanded use of coal can be made compatible with natural resource protection.

A recent article in Electric Perspective magazine, discusses the future of coal-fired electricity in the United States. The following excerpt points out the role that clean coal technologies and the Reserve can play in environmental protection; and I ask that it be printed in the RECORD.

The article follows:

CLEAN COAL TECHNOLOGY: JUST IN TIME

* * * * *

CLEAN COAL AND THE ENVIRONMENT

Emerging coal technologies are designed to comply with environmental regulations in a cost-effective manner. The Clean Air Act, enacted originally in 1963 and amended in both 1970 and 1977, seeks to control the release of sulfur dioxide, nitrogen oxides (NO_x), and particulates from coal-burning power plants. The Environmental Protection Agency's (EPA) New Source Performance Standards, first issued in 1971 and revised in 1978, require new power plants to remove 70 to 90 percent of the sulfur oxide emissions from their flue gases. Proposed Clean Air Act amendments would require extensive modifications to older coal-burning power plants.

To date, the primary method for complying with existing environmental regulations has been installation of a flue gas desulfurization system known as a "scrubber." This technology has been effectively required for all new pulverized coal-fired power paints since 1977.

"Scrubbers have proven to be among the most costly and least reliable pieces of equipment in the utility industry," said Richard E., Balzhiser, senior vice president for research and development at EPRI. He pointed out that the typical scrubbing system creates a tremendous amount of solid waste, can cost up to $100 million, uses huge amounts of water (more than 1,000 gallos per minute), and consumes 3 to 8 percent of the power plant's total energy output. In addition, it is subject to fouling and corrosion, and its maintenance cost is two to 20 times that of the rest of the power plant.

There are now about 120 scrubber-equipped generating units operating at U.S. utilities; more than 100 additional units are planned or under construction. Together with greater use of low-sulfur fuel, they have helped reduce air pollution in the United States considerably. According to EPA, total sulfur dioxide emissions dropped 28 percent throughout the country from 1973 to 1983. Emissions from electric power plants dropped 19 percent during that period, while power plant coal use increased by more than 60 percent. Despite these improvements in air pollution control, however, the acidity of rainfall in the Northeast has not changed appreciably in the last 15 years.

It is this conundrum that is fueling the current debate over proposed additional acid rain legislation. One side seeks further reductions in sulfur dioxide emissions; the other side argues that other factors also may contribute to the acid rain problem. "In essence, the debate has been reduced to an argument over which sources should be forced to further control sulfur dioxide emissions, by what means, and at whose expense," said Balzhiser. Utility industry planners see far greater promise in the commercialization of new coal-burning technology than in further construction of costly and complex scrubbing systems.

Research and demonstration programs have provided data showing both the short-term and long-range environmental benefits of new coal-burning technologies. As shown in Table 1, six new coal combustion technologies could control emissions as effectively or better than a conventional coal-fired power plant equipped with flue gas desulfurization. In the long term, as shown in Figure 1, the results may be even more dramatic. Retrofitting older power plants with new pollution control equipment would reduce emissions in the short term—between 1990 and 2010. At about that time, however, increasing demand for electricity would cause emissions to begin rising again, eventually returning to current levels. Alternatively, the introduction of new coal technology would cause sulfur dioxide emissions to begin dropping by the mid-1990s and to continue dropping steadily through the next three decades.

POLLUTION CONTROL POTENTIAL OF NEW COAL TECHNOLOGIES

Technology	Sulfur oxide (percent removal)	Nitrogen oxide emissions (lb/10 ^{6} Btu)	Particulate emissions (lb/10 ^{6} Btu)
Conventional pulverized coal technology with flue gas desulfurization [1]	90–98	0.5–0.6	0.03
Atmospheric fluidized bed combustion	90–95	0.2	0.01
Advanced pulverized coal/flue gas desulfurization	90–95	0.2–0.3	0.01
Pressurized fluidized bed combustion	90–95	0.1	0.01
Gasification combined cycle	90–99	0.1–0.3	0.003
Fuel cell gasification combined cycle	99	0.003	nil
Limestone injection with staged combustion/baghouse or precipitator (slagging combustor)	90–95	0.1	0.01

[1] EPA New Source Performance Standards.

Source: Edison Electric Institute.

* * * * *

THE NEW TECHNOLOGIES

With coal, there are opportunities for pollution control before, during, and after combustion. New technologies are being developed to attack the pollution problem at each of these three stages. In addition, there are combined and advanced systems under development, some of which avoid the combustion process altogether. The needs of individual utilities will help dictate the choice of applicable technologies as they become commercially available.

* * * * *

FEDERAL HELP IS NEEDED NOW

These and other technologies currently under development could radically change the way that coal is used to provide reliable electric power. For these new technologies to have an environmental and economic impact soon enough, however, an accelerated commercialization program must begin immediately, according to EEI's Kuhn. "Clean coal technologies must be demonstrated at or near commercial scale before they will have the confidence of the electric utility industry and the agencies which regulate it," he said. "Federal participation could accelerate technology development, thereby assisting the U.S. economy with expanded and more efficient coal utilization."

* * * * * indicates an omission in text.●

RHODE ISLAND IS PROUD OF ASTRONAUT "WOODY" SPRING

● Mr. PELL. Mr. President, when the space shuttle *Atlantis* returned to Earth earlier this week it marked the successful conclusion of an adventure that has captivated Rhode Islanders.

The flight crew included Sherwood "Woody" Spring, who left a farm in Harmony, RI, more than 20 years ago with the goal of soaring in the heavens.

He earned a place in the astronaut corps in January 1980 as 1 of 19 men and women picked at the same time.

This week he earned the right to wear the gold shuttle pin of a space veteran.

Throughout Rhode Island we hailed him as our first native son to fly in space. We watched his flight, cheered his successful mission and welcomed his return as the first Rhode Island astronaut.

Many Americans have developed a blase attitude toward space flight, forgetting that only our modern technology and the courage of our astronauts have made space flight a seemingly routine reality.

When a native son was aboard the shuttle, however, Rhode Islanders found renewed interest in the continuing drama of our Nation's scientific efforts to push back the boundaries of the unknown.

Rhode Islanders had a particular interest as they joined the Nation watching his work during a pair of space walks. He helped assemble and disassemble a 45-foot tower and a pyramid of 12-foot girders while we watched.

It was a flawless demonstration of the ease of construction techniques that NASA hopes can be used to build a permanent orbiting space station by 1993.

The Nation owes "Woody" Spring and his fellow crew members a vote of thanks for yet another thoroughly professional space flight, but we owe him a bit more in Rhode Island.

We owe him thanks for reminding us of the spirit of adventure that helped found Rhode Island and that continues to inspire our citizens. I know all Rhode Islanders join me in welcoming him home.

We wish him and his family all the best.

I ask that an editorial, "Well Done and Welcome Home, Woody," from today's Providence Journal be printed in the RECORD.

The editorial follows:

[From the Providence Journal, Dec. 5, 1985]

WELL DONE AND WELCOME HOME, WOODY

When Sherwood "Woody" Spring stepped off the shuttle *Atlantis* upon his team's perfect landing after seven days in orbit, it was one small step for Woody—who stepped so broadly during his two space walks—and one (excuse us) big little step for Rhode Island.

Well, obviously the biggest little state in the Union is pleased as punch that Woody's back, that the shuttle flight was so picture-perfect, that we had in our own astronaut one great excuse to pay great attention to the voyage of the *Atlantis*. Mr. Sherwood will excuse his native state for its proprietary interest in his exploits. The shuttle missions have become so workaday that they no longer automatically stimulate the nation's almost insatiable appetite for adventure.

Having a native son aboard the shuttle gave us all an excuse to lay aside our normally blase American attitude toward space flight. "Cando" spirit is old-hat. These days it's more a "been-done" spirit, in which year after year, launch after launch, the shuttle goes up and gets the job done, its astronauts proving so reliable that we on the ground have quite forgotten the drama that adheres to every flight.

Not so for Rhode Islanders this time. There was televised footage of Woody climbing the tower or working on the pyramid or snaking around the cabin with his merry crew. It was all the more fascinating because we felt this man was one of us, not just another astronaut from Houston. His presence gave us someone to root for during the week-long voyage. In and out of the shuttle, his exploits helped space flight come alive for thousands of viewers and, through the clear and detailed reports filed by science writer C. Eugene Emery Jr., to readers of the *Journal-Bulletin* as well. Down here, it was not just news but adventure.

Job for job, task for task, this may have been the most successful trip of the shuttle program so far. But all good things must end. "God, I hate to go in," Woody said as the last space walk of the mission drew to a close.

We can't blame you.

Welcome home.●

THE FISH AND WILDLIFE SERVICE'S WORK IN THE CHESAPEAKE BAY

● Mr. MATHIAS. Mr. President, I applaud the Senate Appropriations Committee for including approximately $1 million in the continuing resolution for the U.S. Fish and Wildlife Service's involvment in the Chesapeake Bay Cleanup Program. These funds will enable the Service to continue its vital work in the bay, including raising striped bass for release to the bay and protecting ecologically sensitive areas, so vital to all the bay's organisms.

The Fish and Wildlife Service plays a key role in the cleanup program. The Service's bay activities center on the effects of the bay's pollutants on biological resources, primarily fish, shellfish, waterfowl, aquatic vegetation, and endangered species. The main objective of the Service is to assess the effects of nonpoint source pollution from urban and agricultural runoff on fish and wildlife habitats and to recommend ways to prevent or minimize those impacts.

The Fish and Wildlife Service is focusing its immediate attention on the Choptank River on Maryland's Eastern Shore. Last spring and summer, it reviewed 34 sites to evaluate water quality and the health of fish and wildlife habitats there. To help maintain those habitats, the Service encourages best management practices, which improve the water quality and benefit the bay's living resources.

Another important objective of the Fish and Wildlife Service is to help other agencies evaluate and reduce the danger from industrial toxic substance discharges into the bay. About 3,000 discharge sites exist in the bay region, each allowed under State or Federal permits to discharge specified amounts of toxins. At selected sites, the Service is assessing the effects that these discharges may have on the bay's living resources and is recommending necessary modifications to the discharge permits.

In general, fish and wildlife resources of the bay have decreased in recent years, and one of the first signs of that decline was the lower number and smaller size of striped bass caught. Many believed it was a cyclical temporary decline and that striped bass populations soon would be back to normal. But that did not occur. There was an extensive reproductive failure of the bay's striped bass. The situation now has deteriorated so severely that restrictions on commercial and sport catches of striped bass are in place not only in Maryland, but also up and down the east coast.

To start the long-term reversal of this tragic situation, the Fish and Wildlife Service and the State of Maryland have underway a 5-year pilot program to supplement the striped bass' natural production with hatchery-reared fish. This past spring, adult striped bass were captured and artificially spawned. The eggs were incubated and the young fish, were distributed to six national fish hatcheries east of the Mississippi and one State hatchery for rearing. About 250,000 young striped bass—6 to 8 inches long—will be released into the same bay tributaries from which they came this fall.

Plans are to double striped bass production in 1986 and in the future years the goal is to add as many as 1.5 million young striped bass per year to the bay to augment the natural population. Using innovative computer chip tags, some of the young fish will be tagged to follow their growth and survival. In support of this Federal/State cooperative effort, the Fish and Wildlife Service recently placed a fishery biologist at Annapolis to develop appropriate fish stocking strategies, coordinate Federal/State activities, and evaluate the success of the striped bass stocking program. It is anticipated that the fish stocking program in concert with improved habitat quality and effective fishery management procedures will help restore striped bass as a valuable recreational and commercial species of the bay.

In addition to striped bass, the Fish and Wildlife Service is determining the abundance and health of other living resources in the bay, including canvasback and black ducks, shad, blue crabs, oysters, and submerged aquatic vegetation, sometimes called SAV. Causes for declines of these important resources will be identified and recommendations for corrective actions will be made.

Already, much progress has been made in analyzing the loss of SAV, the sea grasses of the bay, used for food and shelter by so many of the bay's or-

ganisms. The Fish and Wildlife Service with other Federal and State agencies, is mapping the distribution, density, and species composition of submerged aquatic vegetation throughout the bay. Maryland watermen and other volunteers are also helping in this effort. Johns Hopkins University is analyzing bay sediments to determine how sediment affects submerged aquatic vegetation and what land practices affect the loss of this valuable resource.

The Fish and Wildlife Service is playing an important role in restoring Chesapeake Bay. It is a role that cannot be omitted from the overall bay cleanup program. I urge the approval of the Appropriations Committee's decision to provide the necessary funding to continue this vital effort to restore living resources of the Chesapeake Bay.●

THE NATIONAL COMMISSION ON RURAL AMERICA

● Mr. DURENBERGER. Mr. President, during debate on the farm bill, I offered an amendment which was cosponsored by 13 of my colleagues, to establish a National Commission on Rural America.

I consider this Commission to be the key to the future of rural America. What I see happening in the agricultural sector of Minnesota is only one aspect of a growing national problem. Declining commodity prices, land values, and farm income have created a downward economic spiral threatening the very existence of thousands of small towns across America's heartland. Erosion of the tax base has undermined rural schools, hospitals and public works and the overall quality of life in rural areas. Main Streets all over the country are suffering from slow, perhaps irreversible, decline.

The farm bill we have just passed will not solve these problems. There is an urgent need to communicate the severity of the situation and begin to fashion national solutions.

The National Advisory Commission on Rural America would be composed of representatives of the administration, Congress, State and local governments, farm groups, rural businesses, and related interests. The Commission is charged with the task of undertaking a comprehensive study of the problems which have already surfaced in rural areas across this country and to call attention to the emerging crisis they foreshadow. The Commission will report their findings to the President and Congress including proposed solutions and the appropriate responsibilities of Federal, State, and local governments. In doing their work, the Commission would draw on ongoing government, academic and private sector research activities, hold public hearings around the country, and conduct original research.

Mr. President, because of the urgent need for action the Commission is allowed 1 year to conduct their work and report their findings. Senate passage of this amendment is only the first step. We've a long row to hoe to get this Commission off the ground and running. Funding is the next step—$800,000 is authorized for fiscal year 1986 for the Commission to carry out its activities.

Mr. President, I prepared an amendment to the continuing resolution to appropriate these important funds. I have decided not to upset the apple cart by offering this amendment, since the Commission is not technically authorized until the farm bill is signed into law. I am concerned however that the funds be forthcoming. In this regard, I would like to address a question to my good friend and colleague, the chairman of the Subcommittee on Agricultural Appropriations.

Would Senator COCHRAN consider including $800,000 for the Commission in the fiscal year 1986 supplemental appropriation's bill when it comes through the Senate?

Mr. COCHRAN. I appreciate the decision of my colleague from Minnesota not to offer his amendment. I recognize the urgency of addressing the problems being experienced throughout the rural communities of this Nation. I commend him on his leadership in developing this Commission and as chairman of the Subcommittee on Agricultural Appropriations I assure the Senator that it will receive the Subcommittee's full consideration when the fiscal year 1986 supplemental comes before the Senate.●

ORDERS FOR TUESDAY

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Tuesday, December 10, 1985.

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

ROUTINE MORNING BUSINESS TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order on tomorrow, there be a period for the transaction of routine morning business not to extend beyond 10 a.m., with Senators permitted to speak therein for not more than 5 minutes each.

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

RECESS BETWEEN 12 NOON AND 2 P.M. TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that on tomorrow, the Senate stand in recess between 12 noon and 2 p.m. for the weekly party caucuses.

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

PROGRAM

Mr. DOLE. Mr. President, following morning business tomorrow, we will be back on House Joint Resolution 465, the continuing resolution.

Rollcall votes can be expected throughout the day and evening and prior to 12 noon—maybe all evening; maybe all night.

It is the hope of the distinguished chairman of the Appropriations Committee, and I think the manager on the Democratic side, Senator JOHNSTON, that we will complete action on the continuing resolution tomorrow.

There are major issues to be resolved—defense, SDI, and others. I do not fault Senators for reserving possible amendments. They know, as the distinguished minority leader pointed out, that nothing is going to happen until those issues are resolved, so it does make it rather attractive.

We hope that tomorrow we can make a judgment as to when we can finish the continuing resolution tomorrow and be in the Gramm-Rudman-Hollings amendment on Wednesday; farm credit maybe Wednesday or Thursday; then go the farm bill and reconciliation. So there is still a glimmer of hope for completing business this week.

Mr. METZENBAUM. Mr. President, will the majority leader yield for a question?

Mr. DOLE. I yield.

Mr. METZENBAUM. Tomorrow night, a fellow down the street has a party. Are we to assume, by reason of that, that there will not be a working session tomorrow night? The President has a party.

Mr. DOLE. That is right. There is a party down there.

Mr. METZENBAUM. I am trying to know, so that we can all guide ourselves accordingly. It helps for domestic tranquillity if we can advise our spouses what is going on.

Mr. DOLE. I think it is a matter on which we should give some advance notice. I think it is 8 o'clock. Maybe we can have some idea by, say, midafternoon where we are going on the continuing resolution.

Mr. METZENBAUM. I appreciate it. Just so that we can all be guided.

Mr. DOLE. As I understand, it is black tie. Is that correct?

Mr. METZENBAUM. I do not think I will be there.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I ask unanimous consent that the Senate stand in

recess until 9:30 a.m. on Tuesday, December 10, 1985.

There being no objection, at 9:47 p.m. the Senate recessed until tomorrow, Tuesday, December 10, 1985, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate December 9, 1985:

THE JUDICIARY

Danny J. Boggs, of Kentucky, to be U.S. circuit judge for the sixth circuit vice a new position created by Public Law 98-353, approved July 10, 1984.

DEPARTMENT OF JUSTICE

Joseph M. Whittle, of Kentucky, to be U.S. attorney for the Western District of Kentucky for the term of 4 years vice Ronald E. Meredith, resigned.

Thomas C. Greene, of Alabama, to be U.S. marshal for the Northern District of Alabama for the term of 4 years. (Reappointment)

Melvin E. Jones, of Alabama, to be U.S. marshal for the Middle District of Alabama for the term of 4 years. (Reappointment)

Herman Wirshing Rodriquez, of Puerto Rico, to be U.S. marshal for the District of Puerto Rico for the term of 4 years vice Jose A. Lopez.

Roger Ray, of Virginia, to be U.S. marshal for the Eastern District of Virginia for the term of 4 years vice Herbert M. Rutherford III, resigned.

Delaine Roberts, of Wyoming, to be U.S. marshal for the District of Wyoming for the term of 4 years. (Reappointment)

IN THE COAST GUARD

The following regular officers of the U.S. Coast Guard for promotion to the grade of lieutenant commander:

Barry R. Moore
William C. Bennett
Richard L. Roseberry
Barry A. Harner
Arthur E. Cubbon, Jr.
Joel R. Whitehead
Douglas E. Martin
John E. Crowley, Jr.
Richard A. Rooth
Jon T. Byrd
Wayne D. Gusman
George A. Capacci
David J. Radachy
Michael S. Canavan
John J. Davin, Jr.
Richard R. Houck
Brenton S. Whitener
Donald R. Opedal
David M. Mogan
Wallace R. Ridley
Stephen D. Heath
Richard R. Kowalewski
Robert A. Kuhn
Edward J. Dewitt
Robert G. Pond
John H. Harper, Jr.
Paul K. Westcott
Kenneth W. Keane, Jr.
John Salvesen
Peter A. Richardson
Clifford W. Heideman
Carlo E. Porazzi
Thomas L. Stewart
Douglas O. Pine
Frederick R. Wright
Kenneth D. McKinna
Terrence Mulligan
Scott J. Olin
Kenneth D. Elmer
John W. Zoch
James A. Peoples, Jr.
Van M. Richardson, Jr.
Gary G. Poll
Charles M. Shirk
James W. Dunlap
William C. Hall
Peter C. Blaisdell
Francis L. McClain
Peter Mason
Lawrence T. Yarbrough
Ronald J. Morris
Randolph Meade III
William P. Cummins
Patrick J. Danaher
Edward J. McCauley
James G. McKnight
Donald W. Gold III
William L. Johnson
Steven A. Newell
Christopher R. Marple
Dwight G. Hutchinson III
Thomas A. Watkins
James J. Lober, Jr.
Eugene L. McDermott
Ty G. Waterman
William C. Kessenich
Lawrence M. Brooks
Michael J. Devine
Jonathan T. Gunvalson
Timothy E. Tilghman
Dennis C. Thorseth
Paul R. Von Protz
Robert M. Segovis
Roland R. Isnor
Larry J. Lockwood
John P. Delong
Brent A. Bosin
Thomas F. Conlan
James D. Spitzer
Sally Brice-O'Hara
Rita A. Nesel
Steven L. Sparks
Galen R. McEachin
Janice E. Page
James A. Stamm
Melville B. Guttormsen
Charles A. Teaney
John D. Christensen
Walter A. Dodge
William J. Savage
Brian N. Durham
Thomas J. Martin
James E. Quarles, Jr.
Christopher J. Snyder
Ronald E. Walters
Richard H. Holzshu
Harry B. Milford II
Robert L. Sainlar
Claude H. Hessel
John J. Ryan

Paul D. Luppert
Randall D. Shaw
Roger D. Defauw
James N. Meisner
Lee W. Ellwein
David M. Tucker
James G. Parker II
Susan G. Moritz
Andrew J. Matta
Clayton W. Evans
Douglas Mihalik
Ronald R. Rutledge
Jane R. Ditto
Michael D. Russell
Richard A. Blais
Bruce R. Frall
Theodore A. Holloman
Eric N. Fagerholm

The following regular officers of the U.S. Coast Guard for promotion to the grade of lieutenant:

Terrence W. Walsh
Russell D. Krull
Jeffrey T. Noblet
Damon S. Starring
Frederick D. Pendleton
Maurice K. Jenkins
Gerald A. Demetriff
Thomas A. Jarrad
Christian P. Kisvarday
Michael A. Holincheck
David A. Albaugh
Barry L. Dragon
Thomas D. Hooper
David W. Vermillion
Robin H. Orr
Bruce E. Grinnell
Michael D. Stanley
William M. Stromberg
Mitchell D. West
Charles L. Smith, Jr.
Edwin M. Stanton
Timothy P. Powers
Michael K. Brokaw
Matthew B. Crawley
Keith P. Steinhouse
Douglas A. McCann
Jay G. Manik
Daryl T. Dejean
Brian T. Sullivan
Kurt J. Colella
Lance L. Bardo
Brian K. Swanson
Jonathan S. Keene
Darrell E. Milburn
Francis X. Irr, Jr.
Robert A. Farmer
Brad J. Suchanek
Brian J. Goettler
Richard M. Kaser
Kurtis J. Guth
Stephen J. Minutolo
Georgia G. Privon
Virginia K. Holtzman-Bell
Bruce T. Campbell
Patrick J. Moran
Daniel A. Laliberte
Richard L. Feffer
Matthew M. Blizard
Daniel T. Kuhn
Robert J. Legier
Jeffrey W. Holt
Robert E. Korroch
Thomas P. Ostebo
Lucretia A. Flammang
Dean L. Faina
Mark A. Prescott
Thomas D. Criman
Stephen J. Ohnstad
Thomas A. Giguere
Mark S. Guillory
Frank M. Paskewich
Steve M. Barker
Preston D. Gibson
Donald S. Stadtfield
Thomas E. Hobaica
David L. Hill
Karen J. Tweed
Jeffrey R. Freeman
Robert B. Edrington
David R. Wilkins
Robert G. Lambourne
Douglas J. Flammang
Marshall V. Lott III
Fulton M. Gregg
Peter M. Keane
John R. Zantek
William E. Pearson
Edward M. Hill
Barry L. Youngblood
John J. Pittman
Richard A. Farrell, Jr.
Larry J. Clark
Robert L. Kaylor
Steven H. White

Robert H. Hazelton
Paul W. Langner
Steven M. Doss
Raymond B. Marvel, Jr.
John H. Wigger
Bruce E. Hensel
Willie M. Dupriest
Kevin L. McCarron
Timothy M. Butler
James C. Howe
Judith E. Keene
Philip H. Sullivan
Eric B. Brown
David W. Kramking
Stephen C. Duca
Scott L. Krammes
Robert J. Malkowski
Michael L. Fisher
Jon P. Burden
Joseph P. Geraghty
Charles W. Ray
Timothy M. Henry
Gary E. Felicetti
Paul A. Jensen
Robert R. Albright
Michael J. Sobey
Kevin B. Rahl
Daniel R. MacLeod
Robin M. Voiles
Kurt W. Devoe
Richard A. Rendon
Bryan D. Schroder
Dale L. Chittenden
Warren E. Soloduk
Robert M. Loesch
Marshall B. Lytle
Larry J. Rudy
Timothy E. Bushrow
Kenneth H. Sherwood
David M. Dunlevy
John M. Lang
Alexander R. Larzelere
Carol C. Bennett
Craig A. Kohler
Timothy M. Cantwell
Thomas J. Rogers
Jon B. Tingley
David J. Turner
Michael F. Rall
Brian D. Perkins
Eric M. Linton
James T. Hubbard
George P. Vance
Terrence P. Keenan
Anthony S. Reynolds
Timothy J. Youmans
Gifford A. Hammar
James B. Beckham
Christopher J. Paquette
Robert M. Atkin
Daniel M. Wray
Kenneth R. Burgess
Mark D. Rutherford
Warren L. Haskovec
Orie T. Davis
Craig V. Sattergren
Pamela Morrow
David S. Stevenson
Michael P. Farrell
Christopher L. Bruening
Richard A. Stanchi
Mark S. Hoesten
James G. Gunther
Peter K. Oittinen
Joseph P. Sargent
Scott S. Graham
Timothy C. Chenoweth
James A. Esposito
Mark R. Devries
Christine D. Balboni
Melissa A. Wall
Mary E. McCaffrey
Paul E. Hansen
Patrick B. Trapp
Jennifer L. Yount

The following temporary regular officers of the U.S. Coast Guard for permanent appointment in the grade in which serving:

Maurice K. Jenkins
Gerald A. Demetriff
Thomas A. Jarrad
Christian P. Kisvarday
Michael A. Holincheck
David A. Albaugh
Barry L. Dragon
Thomas D. Hooper
David W. Vermillion
Robin H. Orr
Larry J. Clark
Robert L. Kaylor
Steven H. White
Robert H. Hazelton
Paul W. Langner
Steven M. Doss
Michael K. Brokaw
Douglas J. Flammang
Marshall V. Lott III
Fulton M. Gregg
Peter M. Keane
John R. Zantek
William E. Pearson
Edward M. Hill
Barry L. Youngblood
John J. Pittman
Bruce E. Grinnell
Michael D. Stanley
William M. Stromberg
Mitchell D. West
Charles L. Smith, Jr.
Edwin M. Stanton
Raymond B. Marvel, Jr.
John H. Wigger

IN THE ARMY

The following-named officers for appointment in the reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3353:

MEDICAL CORPS

To be colonel

Benny L. Bachulis, [redacted]
Gene F. Conway, [redacted]
Jerome M. Hershman, [redacted]
M. Mark Hoffer, [redacted]
Donald D. Trunkey, [redacted]

MEDICAL CORPS

To be lieutenant colonel

James F. Blakely, [redacted]
Albert C. Diddams, [redacted]
Gerald P. Falletta, [redacted]
Ritchie P. Gillespie, [redacted]
Edward J. Glasser, [redacted]
Samuel Goldberg, [redacted]
Arnold J. Jackson, [redacted]
Leroy W. Johnson, [redacted]
George A. Lightbourn, [redacted]
Hubert A. Mayes, [redacted]
John J. Millin, [redacted]
John P. Mullen, [redacted]
Leroy C. Olson, [redacted]
Alejandro Osorio, [redacted]
Francis W. Parnell, Jr., [redacted]
George M. Pomerantz, [redacted]
Wilfredo Souffront, [redacted]

DENTAL CORPS

To be lieutenant colonel

Anthony E. Curcio, [redacted]