SENATE—*Thursday, April 17, 1986*

(Legislative day of Tuesday, April 8, 1986)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

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

Let us pray.

Righteous God, trouble comes in like a flood—like an avalanche threatening to bury us: Libya and the Middle East, Nicaragua and Central America—oil crisis and farm crisis, with chain reactions exploding in many different directions—budget deadline and deadlock like an irresistible force meeting an immovable object—an incomprehensible national debt—unfavorable balance of trade with potential trade wars seething—and a host of other intransigent domestic and international issues that challenge and provoke—and the Senate right in the middle of all of it. Help us to see, wise Father, that God alone is big enough to handle this cosmic mess and He is ready to enable those who bear the burden to find resolution. In His name Who is the way, the truth, the life. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished majority leader, Senator DOLE, is recognized.

Mr. DOLE. I thank the President pro tempore, Senator THURMOND.

SCHEDULE

Mr. DOLE. Mr. President, under the standing order, the leaders have 10 minutes each, to be followed by special orders for not to exceed 5 minutes each for Senators HAWKINS, CRANSTON, WILSON, DIXON, ROCKEFELLER, BINGAMAN, CHILES, LEVIN, RIEGLE, BAUCUS, GORE, and PROXMIRE.

Mr. President, I would indicate that the list for special orders seems to be growing on a daily basis. I would hope sometime in the next few weeks we can reach some agreement for dividing special orders for the morning and afternoon, or limiting the amount of time for special orders. Special orders today will require 1 hour and 5 minutes.

Following the execution of the special orders, there will be a period for the transaction of routine morning business, not to extend beyond the hour of 11:30 a.m.

Mr. President, we are hoping we can move the rollcall vote from 11:30 to 12 noon. I will make that request, if the minority leader has no objection.

Mr. President, I ask unanimous consent that the vote on the hydrorelicensing bill occur at 12 noon rather than 11:30 a.m.

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

Mr. DOLE. Mr. President, as soon as we complete action on the hydrorelicensing bill, which will just be the vote, we will move to S. 1923, the bankruptcy judges bill. It is my understanding that that will not take more than a couple of hours.

We have completed action on the Federal Deposit Insurance Act. That will leave the technical amendments to the crime bill. I think I am in a position to say there will be no votes tomorrow. Maybe we will lay something down today and there might be some debate tomorrow, but I think this is a particularly bad week for Members on both sides who want to visit their home States.

Mr. President, I hope Members will cooperate and try to clean up these minor bills that are on the calendar.

I want to thank the Senator from Illinois [Mr. DIXON] for his cooperation on the Federal Deposit Insurance Act last night. That action will be helpful to Senator BOREN and others with particular problems in their States.

Mr. President, I see no reason why we could not complete our work fairly early this evening. However, there will be rollcall votes today.

S. 2335—ANTI-TERRORISM ACT OF 1986

Mr. DOLE. Mr. President, I will introduce later today a bill that will clarify Presidential authority and strengthen the President's hand in dealing with international terrorism directed at our country and our citizens. I am honored to be joined as an original cosponsor of this bill by the distinguished Senator from Alabama and chairman of the Judiciary's Subcommittee on Security and Terrorism, JEREMIAH DENTON. In addition to his work on this bill, Senator DENTON has a number of other important legislative initiatives on the matter of terrorism.

I would also note that I have worked closely in developing this legislation with three distinguished Members of the House of Representatives: Congressman JOE BARTON of Texas, who first suggested a bill and came up with the basic concepts we have included in it; and Congressmen DUNCAN HUNTER of California, and BOB LIVINGSTON of Louisiana, each of whom has made valuable contributions to the final product. Those three Congressmen will be introducing the bill in the House today.

NOT A "QUICK FIX"

In light of ongoing events involving Libya, this is obviously an appropriate time for the Senate to consider legislation related to terrorism. And, as my remarks will indicate, the substance of this bill will have direct bearing on situations such as the one we see unfolding in Libya.

But it is important to emphasize that this bill is not any kind of "quick fix" reaction of the Libyan situation. I and my cosponsors have been considering terrorism legislation for several months and have been working on this bill for several weeks. It deals with an issue broader than Libya and more enduring than Qadhafi. Terrorism is a long-term problem and requires a long-term solution. Passage of the bill will provide one more important tool to help find that solution.

REAFFIRMING THE PRESIDENT'S AUTHORITY

Let me briefly outline the contents of the bill. As I noted, its central purpose is clarifying the extent of the President's authority to deal with terrorism, thereby strengthening his hand as he copes with this problem.

Personally, I do not believe this bill gives the President any new authority. In my view, the President's constitutional role as Commander in Chief, his clear obligation and authority to defend the United States and its citizens and our country's right of self-defense embodied in the Constitution and specifically included in the United Nations Charter already endows the President with decisive, independent power to respond to terrorist acts and to the threat of terror against America and Americans.

But I am aware that some dispute that view. Certainly, our current debate—an unfortunate debate, in my opinion—over whether the President adequately consulted the Congress prior to the recent air strikes on Libya and whether and how the War Powers Resolution of 1973 applies to the current situation reflects the fact that

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

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there is honest disagreement on this issue.

Harry Truman is famous for saying that the "buck stops" in the Oval Office. Maybe that was true in Truman's day. But today every Senator seemingly insists on putting in his 2 cents' worth on that buck. This is no way to make or implement policies on terrorism.

So it is very important to make clear in law—and equally important to make clear to the world, including the world's terrorists—that the President does have extensive, flexible authority to do what is necessary to strike back against terrorists and to preempt planned terrorist attacks against the United States and its citizens. By passing this legislation, we will cement the authority in law and send a strong message around the globe: The President has the power to act and has the political backing of the American Congress in doing what he must. And if that message is sent now, through passage of this bill, perhaps in the future, the President will not have to send as many of the kind of messages our F-111's delivered to Qadhafi this week.

DEFINITIONS OF "TERRORISM" AND "TERRORIST"

What, exactly, does the bill do? It defines terrorism as a "form of aggression" against the United States. As such, it broadens the conception of terrorism from being just another kind of criminal act and calls it what it is—an attack on our country and our national interests. In that way, the bill will underscore that the President's powers as Commander in Chief come directly and automatically into play when terrorism occurs or is being planned.

The bill defines "terrorist" and "terrorist organization" to include all of those people and groups which can be shown to be directly involved in the planning or conduct of terrorist acts or which directly support such planning or acts. It is not only the bomb-throwers we have to deal with; it is everyone in the network, up to and including governments like Libya's, which openly and aggressively espouse state-sponsored terrorism as an instrument of policy, and people like Qadhafi, who masquerade as legitimate national leaders.

USE OF ALL APPROPRIATE MEASURES

When such groups or people engage in specific acts of terror aimed at Americans, or when the President has clear evidence that they intend to, the bill reaffirms his authority, notwithstanding the provisions of any other law, to "use all such antiterrorism and counterterrorism measures as may be necessary to prevent the loss of lives of U.S. citizens," including use of "deadly force."

Should the President utilize the authority affirmed in the bill, he would be required to report to the Congress within 10 days, specifying "in detail the terrorist threat or terrorist act which justified" his action.

AUTHORITY LIMITED TO TERRORISM SITUATIONS

Perhaps the best summation of the bill is that it affirms the President's very broad authority but only in the relatively narrow—but, of course, critical—field of dealing with terrorism. The bill has no application—and makes no judgment, one way or the other—on the question of Presidential authority to deal with other threats to our Nation or other international situations. The bill does not seek to expand, or in fact expand, any Presidential authority in these broader national security or foreign policy fields.

I have my own views about what the President can do in those areas, and each Senator undoubtedly has his or her own views, too. But this bill purposely avoids those issues. The question of terrorism and our ability to deal with it is too urgent to get bogged down in an endless redebate of the War Powers Resolution of 1973.

PARTIALLY SUPERSEDES WAR POWERS RESOLUTION

Having said that, though, let me make clear that this bill would supersede the War Powers Resolution in those instances—but only in those instances—when the President might use, or contemplate the use of, American military forces to deal with terrorism.

NO SPECIFIC REQUIREMENT FOR CONSULTATIONS

In such circumstances, the bill would eliminate the near requirement—and I say "near requirement" because even the War Powers Resolution qualifies it by saying "in every possible instance"—for prior consultations with Congress before using American forces.

Let me also stress here that, in eliminating the legal requirement for the consultations, I am not suggesting there should be no consultations. On the contrary, such consultations are very desirable and helpful, to both the President and the Congress, whenever they are feasible and can be conducted in a manner consistent with the President's overriding need to avoid jeopardizing the safety of our armed forces.

But this is an age when madmen like Qadhafi have sophisticated weapons which can instantly annihilate large numbers of American military personnel and, regrettably, when almost every word uttered in the deepest secrecy on Capitol Hill ends up shortly thereafter on the evening news and in the morning paper. In this environment, like it or not, we simply cannot undermine the President's ability to act against terrorism by requiring him in every case to thrash out with some or all of 535 Congressmen the details of sensitive antiterrorist military operations before they are underway.

EXTENDS PERIOD FOR PRESIDENTIAL REPORT

The bill would also supersede the War Powers Resolution in a second way—but, again, only when the issue at hand is terrorism—by extending to 10 days—from the resolution's 48 hours—the time during which the President would have to report to Congress on action taken pursuant to the authority outlined in the bill. That additional time would provide the opportunity for a more comprehensive, useful report.

NO ARBITRARY TIME LIMITS

Finally, contrary to the 60- and 90-day limits of the War Powers Resolution, the bill would not put any time limit on the President's use of forces in a terrorist situation. It would be my presumption that use of this authority, in situations such as we have just seen in Libya, would almost always be for operations of very short duration, well under any 60- or 90-day timeframe. But prudence dictates, to me at least, that we not build in any artificial limits on the President's flexibility to do what is necessary, when it is necessary.

THE CHALLENGE OF TERRORISM

Mr. President, international terrorism is one of the most serious challenges which confronts our Nation and our President. To deal effectively with it, the President needs two things above all else. First, he needs the clear and indisputable authority to strike at terrorism and terrorists with his full powers as Commander in Chief. This bill will reaffirm unequivocally that he has that authority.

Second, he needs the political support of the Congress and the people of the United States in doing what must be done. Passage of this bill will make it clear to everyone, everywhere—friend and foe alike—that our President has that political support.

Mr. President, I urge all of my colleagues to join with Senator DENTON and me in passing this bill promptly and decisively.

Mr. President, as an original cosponsor of the War Powers Act of 1970, with Senator Javits, I ask my colleagues to take a look at the debates and report on the War Powers Act. I do not think we ever dealt with state international terrorism. In 1970 and 1973 when the War Powers Act was passed, that was not a matter of great concern. Terrorism had been around for a long time but it was not concentrated, widespread, or state sponsored.

Mr. President, in effect what we seek to do, is to clarify the President's authority to make certain the President will be able to respond to an act of terrorism without a long consultation with Members of Congress, and that it will not in any way compromise our efforts or compromise the security of the American forces.

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Earlier in my statement, I outlined what I believe to be a number of areas of concern. We are not trying to give the President new authority. The authority is limited to acts of international terrorism. The bill will outline what an act of terrorism is. It defines who may be participating in terrorism, whether it is a group, whether it is an individual, or whether it may be a government that is involved.

So I hope my colleagues on both sides of the aisle will have an opportunity to take a look at this bill. It is not partisan. It is nonpartisan; and I hope that we could have a number of cosponsors, Republicans and Democrats. I will be joining Senator DENTON in writing my colleagues a note to outline the provisions.

I am hoping that later today the bill can be introduced and jointly referred to Foreign Relations and Judiciary but that has not been cleared by the distinguished minority leader. I will do that later.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point, followed by a fact sheet.

There being no objection, the bill and fact sheet were ordered to be printed in the RECORD, as follows:

S. 2335

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Terrorism Act of 1986".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.— The Congress finds and declares that terrorsim is—

(1) a form of aggression which results in the killing of innocent persons, the loss of civil liberties through intimidation and coercion, or the loss of property;

(2) a form of aggression that has as its goal the furtherance of a political or ideological objective by violent means;

(3) directed against the orderly and democratic conduct and security of all people;

(4) a threat to the national security and national interests of the United States;

(5) a threat to the safety of all United States persons; and

(6) a threat to the continued and effective operation of the Government of the United States.

(b) PURPOSES.—It is the purpose of this Act—

(1) to protect United States persons from terrorism; and

(2) to grant the President under appropriate circumstances the authority to punish terrorists or terrorist organizations for acts committed against United States persons.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "terrorism" means activity, directed against United States persons, which—

(A) is committed by an individual who is not a national or permanent resident alien of the United States;

(B) involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and

(C) is intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnaping;

(2) the terms "terrorist" and "terrorist organization" mean an individual, group, or any combination thereof which are involved in an act of terrorism;

(3) the term "national of the United States" means—

(A) a natural person who is a citizen of the United States or a natural person (other than an alien) who, though not a citizen of the United States, owes permanent allegiance to the United States; or

(B) a corporation or other entity which is organized under the laws of the United States, if natural persons (described in subparagraph (A)) own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity;

(4) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States; and

(5) the term "United States person" means any individual, organization, corporation, or entity which is either a permanent resident alien or national of the United States or subject to its domestic jurisdiction.

SEC. 4. OFFENSE OF TERORISM.

(a) OFFENSE.—Notwithstanding any other provision of law, whoever organizes, attempts, commits, procures, or supports the commission of an act of terrorism shall be considered to have committed an act of aggression against the United States and may be pursued with deadly force.

(b) AUTHORIZATION OF PRESIDENTIAL ACTION.—Notwithstanding any other provision of law and except as provided in subsection (d), the President is authorized to undertake actions to protect United States persons against terrorists and terrorist activity through the use of all such anti-terrorism and counter-terrorism measures as he deems necessary.

(c) DURATION OF AUTHORITY.—Notwithstanding any other provision of law, subsection (b) shall apply—

(1) to all terrorists wherever they may be; and

(2) until such time as the President determines that no terrorist poses a threat to United States persons.

(d) CONSTITUTIONAL LIMITATION.—The authority granted to the President under this Act may be exercised in the United States only in accordance with the provisions of the United States Constitution.

(e) INTERPRETATION.—Nothing in this Act may be construed as granting any authority to use deadly force within the United States which authority would not exist in the absence of this Act.

SEC. 5. REPORT.

The President shall submit a report to the Congress not later than 10 days after the President takes any action under section 4(b). The report shall describe in detail the terrorist threat or terrorist act which justified such action.

FACT SHEET ON TERRORISM BILL

ELEMENTS OF THE BILL

Defines terrorism as an act of aggression by a foreigner, aimed at U.S. citizens and corporations, with the purpose of influencing our policy.

Gives the President clear-cut authority to deal with specific acts of terrorism with all appropriate means, including deadly force.

Gives the President authority to act to preempt as well as respond to specific acts of terrorism.

Makes clear terrorists include not only actual "bomb throwers" but also those who organize, lead, fund and support terrorists.

Requires the President to report to Congress within ten days of utilizing his authority, specifying in detail the terrorist threat or terrorist act that justified his action.

Supercedes the War Powers Resolution by: (1) imposing no time limit, such as the 60 and 90 day time limits in the resolution, on the President's use of force in a terrorist situation; (2) requiring no prior consultation with Congress; (3) and extending the reporting period from 48 hours to 10 days.

PROTECTIONS IN THE BILL

Limits the authority to terrorist situations.

Insures, through the reporting requirement, that the authority will be used only to combat specific acts of terror.

Does not expand the President's traditional powers to conduct foreign policy—only to react to terrorism.

Applies only to acts by foreigners and has no impact on the rights of Americans.

Mr. DENTON. Mr. President, I rise today to voice my strong support for the "Anti-Terrorism Act of 1986," which I am pleased to cosponsor together with the distinguished majority leader from Kansas. I congratulate Senator DOLE for his leadership in introducing this important legislation, which I believe is an essential factor in the continuing development of a comprehensive U.S. policy to combat international terrorism.

Mr. President, a consistent thrust of mine as a Senator has been to develop improvements in the credibility of the United States ability to act promptly against terrorism with unity of resolve and proper regard for the separation of powers within our Government. Terrorism can be discouraged only if would-be terrorists believe that the President of the United States has the power to take appropriate action promptly, with the backing of the Congress, irrespective of the political party of the President or the party in majority in either House of Congress.

In this regard, I believe that this bill is one of the most important introduced since I have been in the Senate. The bill defines terrorism as an act of aggression against the United States, thereby triggering the President's authority as Commander in Chief of the Armed Forces, to pursue terrorists with deadly force, if necessary. As such, the bill does not create new authority for the President, but rather, as Senator DOLE has so eloquently stated, clarifies the extent of the President's authority to deal with terrorism.

Such clarification is absolutely necessary in view of the second guessing

frequently engaged in by some Members of Congress and the media which clouds the President's existing authority to order military strikes when necessary to prevent terrorist attacks on Americans. Even now, in the wake of the strike conducted against Libya this week, we hear expressions of doubt about the President's authority to take such action. The bill introduced today will ensure that the President does not speak with an empty voice in acting against terrorism. This unfortunately has been the practice in the past on occasion when 535 Secretaries of State undercut foreign policy decisions which the Chief Executive sought to implement.

I believe that prompt enactment of the "Anti-Terrorism Act of 1986" will demonstrate that we are finally on the road to developing an effective policy against terrorism. For far too long, United States policy toward terrorism has been fragmented, reactive, defensive and ad hoc, dealing with each incident as though it were an isolated occurrence, entirely unrelated to other terrorist acts. This approach has ignored the voluminous record developed by the Senate Judiciary Subcommittee on Security and Terrorism.

Over the past 5 years, the subcommittee has held numerous hearings on terrorism which have yielded abundant and conclusive evidence of a network, a global unity, in the sources of support, strategy, tactics, and goals of international terrorists. The thrust and power of this network amounts to a new, highly effective form of low intensity warfare which is being waged by various nation-states—including, particularly, Libya, Iran, Syria, North Korea, and Cuba—to erode the influence and strategic position of the United States and Western democracies, in general, and to enhance the power of the Soviet Union, its client states and allies, in particular.

This reservoir of information regarding the global and interrelated nature of terrorist activities has not been tapped sufficiently by the Congress, the public or the executive branch. Thus, our spasmodic and ad hoc policy toward international terrorism has persisted, despite the publicly declared policies and intentions of terrorist groups and the states, such as Libya, which support them.

However, the events of the last several weeks have focused American and European attention as never before on the strategic and operational coordination of international terrorists. Despite protestations to the contrary by Qadhafi, United States and European intelligence services were able to confirm that the terrorist attack on the West Berlin disco received support, encouragement, and direction from Libya and other sponsors of international terrorism outside Germany.

Presented with such intelligence, the President must be able to act quickly to prevent a terrorist attack, if possible. If prevention is not possible in a given case, the President must act to punish, while the gun is still smoking, the terrorist group or groups involved and the nation-states which have facilitated their criminal acts. The bill introduced today will make it clear that the President is authorized to take such actions, and that we in the Congress stand behind him.

In addition to defining terrorism and clarifying the President's powers to deal with terrorists, the bill's definition of "terrorists" and "terrorist organizations" would cover not only the individuals and groups who actually perpetrate an act of terrorism, but also the leaders of a state which organizes or supports the act. The bill makes any offense of terrorism committed against a U.S. person an act of aggression against the United States, itself, which may be pursued with deadly force.

Finally, in order to protect Congress' oversight responsibility, the bill requires the President to submit a report to the Congress within 10 days after the President takes any action under the bill against terrorists or terrorist activity.

The "Anti-Terrorism Act of 1986" is landmark legislation which could at least cause the tide of terrorism to ebb. Its enactment will demonstrate to terrorists that Congress and the American people are solidly united in supporting prompt action by the President to prevent terrorist acts and punish terrorists. The act will evidence, as well, the growing consensus in this country which is helping to develop a sound and consistent U.S. policy against terrorism.

I urge my colleagues to support prompt consideration and passage of this legislation.

ORDER OF BUSINESS

Mr. BYRD. Mr. President, on this side we ran the hot line about changing the time for the vote and there were no responses. I took that to mean that there would not be any problems. I now learn that a Senator has called to say he can be here and vote at 11 or 1, but cannot be here at 12. Will the distinguished majority leader review this matter and see if that vote could be changed?

Mr. DOLE. Yes.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

Mr. President, before the distinguished majority leader leaves the floor, I think his statement earlier was clear enough but I want to be sure that I understood it. I believe the distinguished majority leader indicated there definitely would not be any rollcall votes tomorrow. Am I correct?

Mr. DOLE. That is correct.

Mr. BYRD. Does the distinguished majority leader contemplate a session tomorrow?

Mr. DOLE. I am not certain of that, but I will give that information. I am certain there will be no rollcall votes tomorrow.

Mr. BYRD. I thank the majority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. Under the previous order, the minority leader is recognized.

ACTION ON THE BUDGET RESOLUTION

Mr. BYRD. On several occasions I have stated the feeling that the budget resolution should be called up and debated on this floor and that there should not be further delay.

There are many reasons, Mr. President, for avoiding further delay. One important consideration has been brought to my attention. I had the opportunity to meet on Tuesday with a group of presidents from colleges and universities around the country, including one or more in my own State. These were both large and small institutions. They warned me of the concerns which delay in acting on the budget will occasion.

Mr. Joseph Murphy of the City University of New York put it to me succinctly: "While nothing happens, something bad happens." That "something bad" is the uncertainty in which students all around the country are finding themselves because they do not know what to plan in terms of student aid.

This is the time of the year when students make decisions about attending colleges and universities next fall. Delay in making decisions about the level of Federal support for student aid programs could affect hundreds of thousands of students nationwide. Some students, faced with this uncertainty, may plan a course of part-time instruction rather than full time. Worst of all, some students may decide to forgo college entirely because of the lack of certainty that aid will even be available. And this is true for many students who will need to depend on a Pell grant.

It is not only the students who are put into this state of uncertainty by failure to produce a budget; counselors in high schools are also unable to advise students on the wise course of action concerning their college plans, and financial aid officers in the colleges and universities are unable to plan for the coming term.

We know that the President's draconian budget cuts in higher education

programs are dead. The President's budget was rejected in the House. In the Senate it was rejected in the committee. But what do we do? I was told in this meeting to which I have referred that 70 percent of the Pell grants in West Virginia, indeed a similar amount nationwide I was told, have been affected by the Gramm-Rudman legislation.

If the Senate does not get to work on a responsible budget, we may see even deeper cuts for next year. Students in West Virginia and around the country need to know what the Senate and the House will do about the student aid on which they desperately depend for their education.

The bipartisan budget reported by the Budget Committee is more responsible in the area of education than the President's budget—which has already been rejected—or the Gramm-Rudman language. But I believe even more can be done. I will support amendments to achieve a proper funding level because I believe that education is an integral component of our national defense. But until the Senate begins work on the budget, we cannot offer such amendments, and the students of West Virginia and the Nation will continue to be left in the dark.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. BYRD. I thank the distinguished Presiding Officer.

Does the Senator from Illinois wish to have additional time?

Mr. DIXON. I thank the minority leader.

Mr. BYRD. Mr. President, I yield the remaining 4 minutes to Mr. DIXON which, if he does not use, if he would in turn yield it to another Senator. I thank the Chair.

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

RECOGNITION OF SENATOR DIXON

The PRESIDING OFFICER. Under the previous order, the Senator from Illinois [Mr. DIXON] is recognized for not to exceed 9 minutes.

Mr. DIXON. Mr. President, I thank the distinguished minority leader for his generosity and hope to not use the entire amount of time allotted to me.

THE IMPENDING READINESS AND SUSTAINABILITY GAP

Mr. DIXON. Mr. President, the Preparedness Subcommittee of the Armed Services Committee has been holding hearings on the fiscal year 1987 Defense budget. As the ranking member of this subcommittee, I felt that certain information regarding the military services readiness and the effects of the administration's 1987 budget should be brought to the attention of my colleagues.

There is no doubt that we have significantly improved the readiness and sustainability of our military forces over the last 5 years. Flying hours and steaming days are up. Backlogs of equipment overdue for overhaul have shrunk. Ammunition stocks have increased. Perhaps most importantly, recruitment and retention of high quality personnel in the military services have reached extremely high levels.

Mr. President, these gains are being placed in jeopardy by this year's budget. My overall conclusion is that the fiscal year 1987 Defense budget submitted by the President is seriously out of balance. It disproportionately emphasizes procurement of new weapons systems and seriously underfunds the spare parts, repair parts, and munitions necessary to make these new weapons capable of sustained operations in time of war. No one wants to return to the days when a lack of spare parts and ammunition reduced our overall military capability, but that is where we are headed if we enact this budget.

Let me take a few moments to show why I think this is the case.

The fiscal year 1987 Defense budget before us today is $42.4 billion below the level anticipated for fiscal year 1987 last year when the President submitted his fiscal year 1986 budget. At the same time, however, we must remember that today the administration's fiscal year 1987 Defense budget still represents significant real growth over the fiscal year 1986 level enacted by Congress last year—4 percent growth over the fiscal year 1986 enacted level, and approximately 8 percent real growth over the fiscal year 1986 sequester level.

I think it is important to look at how the Pentagon cut this $42.4 billion from the fiscal year 1987 level projected in last year's fiscal year 1986 budget to the fiscal year 1987 budget we have before us today.

Almost two-thirds of this $42.4 billion—$26.6 billion, or 63 percent—came out of the procurement accounts. Some of us have been saying for a number of years that we have been spending too much on modernization in the procurement accounts and not enough on readiness and sustainability in the Operations and Maintenance accounts. But it is important to remember that the procurement accounts make a very critical contribution to readiness and sustainability through the funding of spare parts and ammunition.

Now, how did DOD cut the fiscal year 1987 procurement budget by $26.6 billion from what they were projecting last year? The answer, unfortunately, is by going right to those areas of the procurement budget that make a direct and immediate contribution to readiness and sustainability.

Major combat systems—combat aircraft, tanks, surface combatants, and submarines—were not cut from the fiscal year 1987 column of the fiscal year 1986 budget to the fiscal year 1987 budget request. For example, even with a $42.4 billion reduction from the projected fiscal year 1987 level last year to the fiscal year 1987 budget request this year, including a $26.6 billion or 22 percent reduction in the procurement accounts, DOD is still requesting 7 percent more combat aircraft in fiscal year 1987 than they projected for fiscal year 1987 last year. Comparing combat aircraft scheduled for procurement in 1986 and 1987, there is nearly a 11-percent increase over last year.

What was cut in this fiscal year 1987 budget from the fiscal year 1987 level projected last year were trainer aircraft, spare parts, repair parts, and munitions, both high technical "smart" munitions like air-to-air and air-to-ground missiles and conventional munitions like artillery rounds.

Almost $11 billion of the $26.6 billion cut in the fiscal year 1987 procurement accounts from last year's projected level to this year's budget request were in spare parts and support equipment and conventional ammunition. The result, Mr. Chairman, is that in many of the critical readiness and sustainability areas, the fiscal year 1987 budget request is below the fiscal year 1986 enacted level, despite the fact that the fiscal year 1987 defense budget represents 4 percent real growth, and 8 percent total growth, over the fiscal year 1986 enacted level.

Let me briefly focus on two areas.

SPARE PARTS

I have included a chart which shows three columns of spare parts funding in each of the military services: The fiscal year 1986 enacted level; the fiscal year 1987 level projected last year; and the current fiscal year 1987 request. I ask unanimous consent that this chart be printed in the RECORD at this point.

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

AIRCRAFT SPARE PARTS FUNDING

[In millions of dollars]

	Fiscal year 1986 enacted	Fiscal year 1987 column of fiscal year 1986 request	Fiscal year 1987 request
Army	814.3	1,198.3	710.5
Navy	1,259.1	2,273.3	1,856.1
Air Force	3,811.1	6,035.7	3,477.9

Mr. DIXON. Mr. President, in all three services there is a very substantial reduction from what they said last year they would need in fiscal year 1987, to what they are requesting this year for fiscal year 1987. The fiscal year 1987 spare parts budget requests for the Army and Air Force are actually below the fiscal year 1986 enacted level, despite the fact that aircraft flying hours in these two services are projected to increase from fiscal year 1986 to 1987.

Next, I want to discuss an Air Force funding chart for aircraft replenishment spare parts. According to this chart, which I ask unanimous consent be printed at this point in the RECORD, we funded 100 percent of the Air Force's replenishment spare parts requirements in fiscal year 1985, and 71 percent in fiscal year 1986. But the current budget request meets only 56 percent of the Air Force fiscal year 1987 replenishment spare parts requirement and 58 percent of the fiscal year 1988 requirement. The Air Force will never be able to sustain air combat operations in wartime if we keep this up.

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

AIR FORCE REPLENISH SPARE PARTS

[Dollar amounts in millions]

	Fiscal year					
	1983	1984	1985	1986	1987	1988
Requirement	$5,215	$4,531	$3,907	$4,052	$4,542	$6,096
Program	$2,587	$3,304	$3,907			
1987 Parts budget				$2,873	$2,550	$3,547
Percent	50	73	100	71	56	58

MUNITIONS

Mr. DIXON. Mr. President, I also want to touch on ammunition, both conventional munitions and high-tech, "smart" munitions.

I have a chart showing trends in Army ammunition procurement. This chart compares the fiscal year 1986-90 and fiscal year 1987-91 5-year defense plan figures for the procurement of ammunition, Army account, and I ask unanimous consent that it be printed in the RECORD at this point.

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

PROCUREMENT OF AMMUNITION ARMY ACCOUNT

[In millions of dollars]

	Fiscal year—						
	1985	1986	1987	1988	1989	1990	1991
Fiscal year 1986-90: President's budget	2,646.3	2,635.0	3,051.1	4,483.3	4,772.5	5,457.9	
Fiscal year 1987-91: President's budget	2,500.3	2,497.2	2,254.0	2,424.0	2,289.9	2,337.4	2,398.7
Difference		−137.8	−797.1	−2,059.3	−2,482.6	−3,120.5	

Mr. DIXON. Mr. President, last year, the 5-year defense plan projected a steady growth in this account through fiscal year 1990. This year, however, the fiscal year 1987 request is $800 million below last year's fiscal year 1987 projection, and $243 million, or 10 percent, below the fiscal year 1986 enacted level. The current 5-year funding line is flat—we do not even get back to the fiscal year 1985 level by fiscal year 1991, despite the fact that the current 5-year defense plan includes an average of 3 percent real growth after inflation for each year of the next 5 years for the defense budget as a whole.

I have another chart which summarizes war reserve munitions funding in the military services from fiscal years 1984 to 1987, which I ask unanimous consent to have printed in the RECORD at this point. In two services, the Army and the Navy, the fiscal year 1987 budget requests less funding for war reserve munitions than was enacted in fiscal year 1986. We are buying more combat aircraft than we planned, and less munitions than we planned.

There being no objection, the chart is ordered to be printed in the RECORD, as follows:

FUNDING FOR WAR RESERVE MUNITIONS

[In millions of dollars]

	Fiscal year—			
	1984	1985	1986	1987
Army	1,198	1,702	1,376	1,313
Navy	2,770	3,507	3,622	2,982
Marine Corps	575	614	518	608
Air Force	1,423	1,771	2,172	3,320

Mr. DIXON. Mr. President, in our hearings with the commanders of the Unified and Specified Commands this year, all of the CINC's emphasized that improving their ammunition sustainability remains one of their top priorities. Mr. President, I was shocked last week to hear Army officials testify that under the current 5-year defense plan, the Army's days of supply of modern conventional ammunition would increase for the next 2 fiscal years and then drop by fiscal year 1991 almost back to where we are today.

The news in the area of sophisticated "smart" munitions is not much better. I ask unanimous consent that a table on funding for these munitions be printed in the RECORD.

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

SOPHISTICATED MUNITIONS

[Missiles, torpedoes, etc., comparison of procurement plans, last year's 5-year plan versus this year's 5-year plan, fiscal year 1987-90]

	Fiscal year—		Reduction	Percent reduction
	1986 plan	1987 plan		
Army	127,301	91,405	−35,896	−28
Navy	49,721	37,238	−12,483	−25
Air Force	54,715	42,681	−12,034	−22
Total	231,737	171,324	−60,413	−26

Mr. DIXON. Mr. President, comparing the fiscal year 1986 5-year defense plan submitted last year with the fiscal year 1987 plan before us this year, the number of smart munitions to be purchased over the 4 common years of the two plans has been cut by 28 percent in the Army, 25 percent in the Navy, and 22 percent in the Air Force. These are the munitions we are relying on to give our forces the qualitative edge to offset the numerical advantages the Soviet Union and Warsaw Pact nations have in areas such as tanks and aircraft. Stretchouts of this magnitude clearly increase the risk we face should war come anytime in the next 5 years.

Mr. President, funding for spare parts and for ammunition are two of the most critical areas of our readiness and sustainability. All of the material I have cited this afternoon comes from DOD's own budget justification materials.

There is no question in my mind that the fiscal year 1987 budget as

submitted has a strong bias against readiness and sustainability. If the imbalances in this budget are not corrected, we will soon begin to see readiness indicators turning down as a result of spare parts shortages.

In conclusion, the cold, hard reality is that Congress is not going to provide the full level of funding for the Defense Department that the President has requested in his fiscal year 1987 budget. Whatever level of funding for the Defense Department is provided in fiscal year 1987, it is absolutely critical that it maintain the appropriate balance between funding for new weapons and funding for readiness and sustainability. The challenge we face over the next several months in the Congress is to restore this balance, while still bringing down the overall level of defense spending in fiscal year 1987.

I thank the President and I yield the remainder of whatever time I have remaining to my distinguished friend from New Mexico.

How much time do we have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has no time remaining.

RECOGNITION OF SENATOR ROCKEFELLER

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia [Mr. ROCKEFELLER] is recognized for not to exceed 5 minutes.

Mr. ROCKEFELLER. I thank the Chair.

COMMISSION ON INDUSTRIAL COMPETITIVENESS REPORT

Mr. ROCKEFELLER. Mr. President, today, along with 30 Democratic and Republican cosponsors, I am introducing a joint resolution requiring the President to report to Congress on his response to the recommendations of his Commission on Industrial Competitiveness, sometimes known as the Young Commission.

We offer this vital resolution because the Young Commission did some vital work for this Nation of ours, the importance of which has been basically unrecognized by both the President and Congress. And we offer this resolution to help provide a catalyst for a serious national debate on the competitiveness of our economy, which is fundamental to our country's future economic prosperity.

President Reagan appointed the Young Commission in June 1983, calling attention to the new reality of global competition faced by American industry at home and abroad. He called for recommendations on ways to improve the Nation's ability to compete, and he selected a commission of 30 distinguished Americans from business, labor, government, academia, and the public. He selected John Young, chairman of Hewlett-Packard, one of our premier industrialists, to chair the Commission.

The Young Commission studied the global economy for 15 months and reported unanimously in January 1985, just over a year ago. The Commission has given us an unflinching picture of where we are and where we must go. Their report can be a focal point for a national debate and the foundation on which to build a new consensus for needed policies. The report is persuasive because it is the work of a blue-ribbon commission, representing a diversity of interests, with no partisan ax to grind. And it is persuasive because it irrefutably summarizes and reaffirms the evidence with which we are becoming so familiar:

The American economy has become fully integrated in a world economy. Fully 70 percent of the goods we produce compete with merchandise from abroad. We, however, have not adjusted to the new world economy as effectively as some of our competitors, most notably Japan and the other Pacific Rim nations.

Our problems are not confined to one region, or to only our basic industries. Our productivity growth has been outstripped by virtually all our competitors across the full board. Fully half the jobs in the U.S. steel industry have disappeared since 1979. People know that. But we also have lost market share in all the high technology or "sunrise" industries. Our electronics trade deficit with Japan approached the magnitude of our deficit in autos; we fell into deficit in telecommunications where we have always been the world's pacesetter.

While macroeconomic problems, notably an overvalued dollar, bear some of the blame for America's competitive problems, they don't explain everything. The dollar was lower valued in the 1970's, but our trade deficit increased. The value of the dollar cannot be blamed for our slow productivity growth, stagnant wages, or high capital costs.

Nor can the deterioration in American manufacturing be comfortably dismissed by the claim that we are becoming a service economy. Services and manufacturing are often inextricably linked. If the United States loses competitiveness in manufactured goods, it risks losing position in supporting services. If other companies, notably Japanese, dominate complex manufacturing, it is naive to believe that they will rely on our financial services, lawyers, or advertising agencies.

We have neglected investments in areas fundamental to our economic future: The education and training crucial for a skilled and adaptable work force, and the requisite level of science and technology needed to keep us at the cutting edge of competition.

In short, the Young Commission concluded:

> Our ability to compete internationally faces unprecedented challenge from abroad. Our world leadership is at stake, and so is our ability to provide for our people the standard of living and opportunities to which they aspire.

The Young Commission then offered a series of thoughtful proposals for government and private action: To better create, apply, and protect new technology; increase the supply of productive capital; develop a more skilled, flexible, and motivated work force and make trade a national priority.

In my view, meeting the challenge of a competitive world is the central economic issue of our time. The economic dominance that produced the prosperity of the 1950's and 1960's for our country is gone, and it will not be returning. We have to build our future prosperity in a world where many talented nations compete effectively. The old habits and old policies will not suffice for our new situation.

President Reagan points with understandable pride to the long-running recovery coupled with low inflation. But the fundamental measure of our economic condition in a world economy is our trade picture. Our trade deficit hit $148 billion last year. We can't go on like that. A nation that buys $3 billion more from abroad each week than it sells is draining its economic strength.

Some may argue that the recent run of economic good news—particularly the sharp decline in oil prices and the dollar—have made any competitiveness problems our country might have a thing of the past. They are wrong. I certainly agree that the drop in oil prices should have the effect of stimulating economic growth, and that the reduction of the value of the dollar is welcome—indeed, long overdue—and indispensable for our industries to compete at home and abroad. Treasury Secretary Baker deserves great credit for reversing the administration's policy of stunning indifference to the damage that the overvalued dollar was doing to our industries, and for taking the lead in international efforts to bring the dollar down to earth.

Since the overvalued dollar has been a major factor in driving American manufacturers offshore, keeping the dollar at a reasonable level should help keep American manufacturing and jobs here at home. If interest rates stay relatively low, it should provide an attractive incentive for investment in plant and equipment that will make our industries more productive. All of us hope that the good economic news can help produce what the U.S. News & World Report has euphorically described as "the brave new economy." My State of West Virginia, still

not recovered from the recession of 1981-82, desperately needs the economic recovery to continue, and extend its impact to some of our hard-hit basic industries.

But if our country is fortunate enough to be in a period where the macroeconomic news is good, we should be wise enough to make this a period of opportunity, not complacency. It is a period of time for recognizing the scope of the competitive challenge and for building consensus behind policies that will allow us to secure our competitive future. Lower interest rates, oil prices, and the price of the dollar do not make up for the way we have neglected crucial investments in education and training, research and development, science and technology.

The quality of our education system is fundamental to our economic destiny. We will not long sustain a world-class economy without a world-class education system, and at the elementary and secondary school levels, we have fallen behind, not only Japan, but many nations—friend and foe. In my State, there is a teacher shortage in math and science in 30 of the 55 counties.

Because of demographics, the next few years are the critical window of opportunity for revitalizing our education system. Within the next decade, nearly 800,000 new teachers will be needed. Will those retiring be replaced by the best and the brightest, drawn to an exciting and rewarding profession that our country esteems—and pays—the way it should? Many of our States and localities are making great efforts to lift their education systems. The policies we enact in Washington; the critical investments we make; and the message we are prepared to send about the importance of education—these can all play a fundamental part in determining if we have a surge of excellence in education, rather than succumbing to the "tide of mediocrity" which the President's Education Commission identified in 1982.

For years, we have led the world in science and technology, but fallen short in translating our breakthroughs into new products and advances in manufacturing. The VCR and robotics were invented in the United States; today not a single VCR is manufactured here, and we are far behind Japan in robotics. But even as we wrestle with that problem, which is fundamental to our industrial competitiveness, a National Science Board report recently noted that our leadership in science and technology was in severe jeopardy, owing to inadequate laboratory instruction and equipment, shortages of qualified faculty, and outdated curriculum.

Finally, we have to make a concerted effort to put in place the policies—tax, trade, investment—that can keep the United States a country where it is possible to manufacture competitively. The recent Business Week feature entitled, "The Hollow Corporation," paints a stunning picture of just how much of our manufacturing base has been liquidated in the past few years. In many cases, American companies have gone abroad in search of cheap labor to compete; in some cases, they have been in search of skilled labor no longer available here. To a shocking degree, many of our corporations—including names like RCA, Kodak, Caterpillar and Hewlett-Packard—have begun to operate, not by competing with Japan or Korea, but by distributing sophisticated products made in those countries.

It may be sound strategy for each of the corporations involved, but taken collectively, it risks disaster for our country's economic future. World economic leadership will reside in the countries that have the science and engineering, the technology, and the skilled and educated work force to make advances in manufacturing: new products and new processes. We are not going to be prosperous very long as the advertisers, retailers, and consumers of sophisticated products made overseas.

Mr. President, I am convinced that the people of our country understand the competitiveness challenge—and the stakes—far better than our political leadership does. State governments are working to improve schools; corporations are restructuring to compete; labor and management are pulling together to improve productivity. I find understanding, recognition, and deep concern whenever I speak about these issues—whether the audience is the successful entrepreneurs of the American Business Conference, or the cross section of interested West Virginians at one of my town meetings back home. We owe it to our people to level with them about the full nature of the challenge, the costs of meeting it, and the consequences of failing.

The resolution we offer today is intended to help spur the debate. Some have said that as a nation, we are incapable of acting in response to the competitiveness challenge until we hit a crisis. Frankly, I do not believe that is true. If the President, with his great communications skills and popularity, chose to speak to the Nation about the competitiveness challenge, he could make it a national priority overnight. Because he has not, the rest of us in leadership positions will have to work much harder to get the message out.

We should recognize that there will never be a day when the crisis arrives. It does not work that way. There was no one day when Great Britain awoke to discover that its competitiveness and its standard of living were declining. Rather, it was a gradual deterioration over many years, eventually resulting in second-rate economic status for the nation. Some of that deterioration has taken place here already; it will continue to take place unless we dedicate ourselves to reversing it. But we have great assets as a nation, and with a concerted effort, we can insure a bright economic future for our country and our people.

Mr. President, I ask unanimous consent that the full text of the resolution be printed in the RECORD.

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

S.J. RES. 327

To provide for the President to report on the status and implementation of the recommendations of the President's Commission on Industrial Competitiveness.

Whereas the President has relied upon nonpartisan commissions in an effort to inform or build a national consensus on such diverse issues as Central American policy, Social Security, strategic missile basing, waste and abuse in defense purchasing, and a host of other national priorities;

Whereas in June 1983, to help build public awareness and a consensus about the policies needed to secure the future economic prosperity of the Nation, the President appointed a Commission on Industrial Competitiveness, composed of distinguished representatives of business, labor, government, academia, and the public;

Whereas in January 1985, the Commission reported and unanimously found that the ability of the United States to compete internationally faces unprecedented challenge from abroad;

Whereas the Commission unanimously found that the United States productivity growth lags far behind that of foreign competitors, real hourly compensation of the national work force is no longer improving, United States leadership in world trade is declining, and pre-tax return on assets invested in manufacturing discourage investment in this vital core of the economy;

Whereas the Commission unanimously recommended an economic agenda for the Nation for this decade and beyond, including policies and practices that seek to strengthen the national competitive performance in the creation application and protection of technology, the reduction in the cost of capital to United States industry, the development of a more skilled, flexible, and motivated work force, and the better coordination of trade policy;

Whereas the Commission unanimously found that the United States must take on the challenge of competitiveness as the economic agenda for the next decade;

Whereas the Commission unanimously found that the government should take the lead in highlighting the importance of competitiveness and should nurture an effective consensus-building dialogue among leaders in industry, labor, government, and academia; and

Whereas the Commission unanimously found that the United States world leadership is at stake, including the ability to provide for the standard of living and opportunity which is aspired to by the people of the Nation: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the President shall report to the Congress on

the status of the recommendations of the President's Commission on Industrial Competitiveness and future plans for implementation, no later than the later of August 1, 1986, or sixty days after the date of enactment of this joint resolution.

RECOGNITION OF SENATOR BINGAMAN

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico [Mr. BINGAMAN] is recognized for not to exceed 5 minutes.

Mr. BINGAMAN. Thank you, Mr. President.

COMMISSION ON INDUSTRIAL COMPETITIVENESS REPORT

Mr. BINGAMAN. Mr. President, I am happy to speak this morning in support of Senate Joint Resolution 327. And I commend the distinguished junior Senator from West Virginia for his leadership in introducing this joint resolution today.

At a time when we are especially concerned for our national military security, this legislation focuses on an equally important threat to our national economic security.

President Reagan's Commission on Industrial Competitiveness, which was chaired by John Young of Hewlett Packard and comprised of distinguished leaders from business, labor, education, and Government, reported over 15 months ago that "our world leadership is at stake, and so is our ability to provide for our people the standard of living and opportunity to which they aspire." The threat, according to the President's Commission, comes from the unprecedented emergence of strong foreign economic competition.

The President has done virtually nothing in the 15 months since the Commission unanimously called on America to grasp the challenge of this competition and to make it the primary economic agenda for the next decade. Despite a declining dollar, the United States has posted another world record annual trade deficit which continues to worsen month by month. To pay for these foreign made products, the United States has become a net debtor for the first time since we emerged as a major world power in 1914. Borrowing at a rate of over $120 billion year, the United States has already become the world's largest debtor. We have saddled ourselves and our children with enormous future obligations.

Wage rates and living standards are stagnant in real terms and we have 8 million people actively looking for work. U.S. productivity growth is only a fraction of that of our competitors. Business investment in new, commercially productive plant and equipment is extremely low, as 20 percent of our industrial capacity remains idle. Business Week magazine on March 3 issued a lengthy report, which the Senator from West Virginia referred to, entitled "The Hollow Corporation," detailing the long-term damage that is beng done to U.S. economic well-being in the face of the increasingly sophisticated foreign competition.

Clearly, we have a severe, national economic problem which we need to address in a responsible, bipartisan manner. This has been the message of the President's Commission on Industrial Competitiveness and at least 20 other recent, blue-ribbon panels of leaders from business, labor, academia, and Government. Just as clearly, however, President Reagan has not given us the national leadership this challenge requires. As Michael E. Porter of the Harvard Business School and member of the President's Commission, states in the current Fortune magazine, "The President received the Commission's report politely and turned to other business." I ask that a copy of this article be inserted in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, our resolution will help focus administration attention and lay the groundwork for a useful dialog with Congress. The resolution requires the President to report to the Congress on activities he has taken and intends to take on the recommendations of the Commission.

The resolution introduced here today is the first of what I hope will be many important initiatives growing out of the efforts of the recently created Senate Democratic Working Group on Economic Competitiveness. In late December last year, Senate Democratic Leader ROBERT BYRD appointed the working group, on which I am proud to serve as chairman. The other members of the group are Senators BAUCUS, BYRD, KERRY, LEVIN, MATSUNAGA, MOYNIHAN, RIEGLE, and ROCKEFELLER.

Over the past few months, in consultation with numerous outside experts, we have examined the competitiveness problem and the hundreds of recommendations that have been proposed by the President's Commission and the 20 other prestigious panels that have looked at this problem. The American character is ideally suited to meet the challenge these reports have spelled out for us. It is Government's unique capability and responsibility, however, to assure that American firms and workers have the tools of education, technology, and capital necessary to get the job done.

Our working group is developing consensus legislation and a leadership strategy which, hopefully with bipartisan and Presidential support, can assure increasing prosperity and economic security for all Americans. Today's legislation is an important step toward the goal.

EXHIBIT 1

(By Michael E. Porter)

WHY U.S. BUSINESS IS FALLING BEHIND

America's inability to compete in world markets, as President Reagan's Commission on Industrial Competitiveness reported just over a year ago, is the most serious challenge facing the U.S. The President received the commission's report politely and then turned to other business. Instead of making international competitiveness the new challenge for America, he has been celebrating the country's supposed comeback.

Yet much evidence leads to the disturbing conclusion that we are in a hollow recovery in which the foundation of future economic growth is being undermined instead of fortified. If one looks beyond the shortest run, the inescapable conclusion is that competitiveness may well be the pivotal economic issue for the rest of this century.

The sustained economic recovery, nine million new jobs, low inflation, and falling interest rates certainly seem encouraging. But a closer look at the performance of the economy suggests a strikingly different conclusion. Measures of underlying competitiveness are getting worse, not better, and the trend is not new.

The U.S. did not have a trade deficit in this century until 1972. The trade deficit has climbed with few interruptions ever since, even when the dollar was widely viewed as undervalued in the late Seventies. Low inflation is a symptom of the competitiveness problem, not a sign of success. Inflation is low because oil prices are falling and because of competitive pressure on U.S. industry. Price increases have become an endangered species.

Is job creation a good indicator of economic health? Some 168,000 jobs were lost in manufacturing last year. The vast majority of the new jobs in the U.S. have been in construction and in services such as retailing, wholesaling, finance, and government. These jobs, in areas not exposed to international competition, provide little comfort.

Interest rates have been cut in half since the recovery began, another contributor to the feeling of well-being. Falling interest rates have led to rising corporate indebtedness, but not to the sustained capital investment they were supposed to foster. Over 90% of the growth in capital spending since 1979 went for automobiles and office machinery, not production equipment. Orders for plants and equipment have been falling since last September.

Instead of investing at home, U.S. companies are stampeding offshore. Caterpillar, for example, now makes or buys well over 50% of its components and finished products abroad. U.S. companies are becoming second-class manufacturers and many are giving up instead of doing something about it.

Among the most straightforward measures of U.S. industrial competitiveness is inflation-adjusted wages. Real wages grew steadily from World War II until 1973. Since then they have fallen and the trend is still downward. In real terms average gross weekly earnings are at 1962 levels.

Most ominous of all, productivity growth has come to a halt. Productivity has risen less in this recovery than in any other since World War II, and it declined last year. Productivity growth is vital because it ultimately determines wages, profits, and living

standards. The U.S. no longer is the world's most productive nation in several industries, including autos and machine tools, and the productivity gap is widening rapidly.

Unfortunately, the competitiveness problem does not fit the President's economic vision. The Administration seems to believe that U.S. industry is still preeminent. It preaches that current difficulties will be solved simply by getting government off the back of business and making a few adjustments in interest rates and the exchange value of the dollar.

The Administration also seems to believe that the mere acknowledgement of a problem is the first step to greater government intervention in the economy, something it vehemently opposes. It seems convinced that even a discussion of the issue will open the door to an avalanche of wrong-headed policies.

Congress, meanwhile, votes for protectionist measures as the way to help businesses and workers that are losing out to foreign competitors. But Congress also has missed the point. The U.S. cannot solve its problems through protectionism or by opening up the Japanese market. Americans buy Japanese goods not just because they are cheap, but because many are more advanced and better made. The almost pathetic efforts of Japanese buying delegations to find U.S. products to take home illustrates the real problem. What did the Japanese come up with after scouring the U.S.? Oranges, wine, fondue sets, and air fresheners.

Timber, coal, and agricultural products may respond to the falling dollar. But important exports and imports such as machine tools, consumer electronics, and automobiles are much less price sensitive. A low dollar is not going to cover up lagging technology and inferior quality.

The U.S. will not solve the competitiveness problem until it again becomes the place where the most advanced, highest quality goods and services are produced by the most skilled workers using the most advanced methods. This is the reason the U.S. was the greatest economic power in the Forties, Fifties, and Sixties. The U.S. has no inherent right to the world's highest standard of living. A society must earn what it consumes. I believe that most American consumers, workers, and managers know in their guts that this is true.

Many of the remedies to these problems lie squarely in the private sector. U.S. companies have a lot of catching up to do in training, labor relations, quality control, and the introduction of new technology. Recent efforts are a start but are far from enough. Corporate research and development spending has risen, but spending by Japanese and German companies has risen more. Every manager, every employee, every trade association, and every labor union has a vital role in helping industry become preeminent again in productivity and technology. Business and labor have done themselves a disservice by blaming their troubles on outside forces and asking government to bail them out.

But government also has a role in solving the competitiveness problem. Getting off the back of business is not enough. Companies cannot succeed without the basic tools, the most educated work force, and the premier technological base. These require a social investment in the primary and secondary education system, in universities, in research institutes, and in the scientific establishment. No company or individual can afford to create these things. Government must do so.

The Reagan Administration's greatest failure has been in investing too little in America's future prosperity. It does not recognize that some parts of the social agenda are vital to the economic agenda, just as Democrats often forget that economic success is vital to achieving the social agenda.

Cutting back on education and training to reduce budget deficits is like tearing down the house for firewood. The result is that America does not make the first team compared with other countries in terms of math and science skills. The number of engineering graduates in the U.S. is inadequate. Even the facilities in U.S. schools and universities are subpar.

Federal civilian research has fallen in real terms since 1981, just as America has lost its technological lead in many areas. Total federal spending on research, including military outlays, was only 1.2% of GNP last year vs. 2.2% in 1964. Other nations spend a much higher percentage of GNP on civilian technology. We cannot forgo investment in human resources and technology in the name of budget cutting without sacrificing long-term economic growth.

The Federal Government also has lost its focus on capital investment, the third key ingredient of competitiveness. The tax reform legislation before the Senate will penalize investment when it is more vital than ever. Washington's ideas about tax reform seem to rest on the shaky hope that companies losing to foreign competitors can somehow pay a larger tax bill without slipping even further behind.

The Federal Government also has proved incapable of making real progress toward unsnarling the international trading system. Both Congress and the executive branch are plagued by overlapping authority and responsibilities in the trade area, the legacy of an era when trade was unimportant and U.S. companies had a commanding lead.

Finally, the U.S. must regain its will to be the best economically. The public and many corporations have developed a bunker mentality. The sense of economic opportunity has been lost, as if all the new products and services have already been invented and all human needs satisfied. Since the Japanese and Koreans make things cheaper, runs this despairing train of thought, America is doomed to a falling standard of living.

The truth is that the U.S. is in a period of unprecedented opportunity driven by technological change that is reshaping old industries and creating new ones. The long-term health of the U.S. economy depends on its ability to lead these developments instead of playing catch-up. The American dream will continue if the country equips itself with the skills and technology it needs and recaptures the will to achieve.

RECOGNITION OF SENATOR CHILES

The PRESIDING OFFICER. Under the previous order, the Senator from Florida Mr. [CHILES] is recognized for not to exceed 5 minutes.

ANNIVERSARY OF YOUNG COMMISSION REPORT

Mr. CHILES. Mr. President, I rise today to join with my distinguished colleagues from West Virginia and New Mexico, and others, in introducing what I think is an important initiative. I congratulate them for the work that they have done, the Senator from West Virginia, in being the prime sponsor of this, and the Senator from New Mexico, in the work that he is doing on productivity, with the task force that he chairs, with a number of important meetings, and the people that he has been bringing in to talk with a number of us in the Senate from business, from academia, and from many areas in trying to focus on this tremendously important problem.

Over a year has passed since the "Young Commission's Report on Industrial Competitiveness."

In that year, the administration has greeted the report with a resounding silence.

We have seen another passive response by this administration to what is becoming a national economic emergency.

I guess we are getting accustomed to this lack of leadership and action.

We see it in the administration's response to the International Trade Commission's unanimous rulings on our industries damaged by imports.

We see it when the administration fails to enforce existing trade laws against unfair foreign trade barriers.

And now we see it when the President's own blue ribbon panel issues a report which tells us that the very basis for our prosperity is at risk.

Let me remind you how severe our competitive problem has become.

In the first term of this administration, the United States experienced a 27-percent decline in its ability to compete in the world economy.

The fundamental causes of this decline are right here at home. Our productivity growth is lower than that of our trading partners. Our real interest rates are higher than abroad. We invest a smaller proportion of our resources in research and development than our trading partners.

And if anyone thinks things are getting better—just consider that U.S. productivity actually declined in 1985. This is not the path leading to a higher standard of living. This is the path toward the impoverishment of the American people.

Finally, consider that our apparent prosperity of the last few years has been brought with a mountain of debt. In the last 5 years we have gone from the world's largest creditor to its largest debtor. The bottom line is that we are losing our ability to earn our way in the world economy.

As this forum today indicates, we really cannot expect a passive administration to lead the way toward reversing our competitive decline. We in Congress must take the lead—and I am glad to see this is a bipartisan approach—and we know that we must go forward.

The President must be given less discretion to ignore our trade laws.

We must invest in economic growth. Senator HART, myself, and several other Senators will offer a growth and investment initiative as an amendment to the budget resolution.

We will not shirk our responsibility to invest in future economic growth. Unless we invest in basic science, technological development, education, training, and trade promotion—our prosperity will not endure.

With or without the President's leadership, it is time to act.

So I look forward to joining with my colleagues today. I feel this is an important first initiative and we will need to continue to work with that as we go forward.

Mr. BAUCUS. Mr. President, Senators ROCKEFELLER and BINGAMAN have spoken about the resolution that they are introducing calling for the President to respond to the Young Commission recommendations. I support their efforts. I join in their efforts because I think that the administration's failure to respond to the Young Commission's recommendations is a gross disservice to this country.

The resolution which I am cosponsoring along with Senators ROCKEFELLER and BINGAMAN serves two important purposes: First, it underscores that we need to focus increased attention on the problem underlying our declining international competitiveness.

For too long we have relied on quick fixes to shore up our industrial and technological strength, and quite frankly we are not succeeding.

Second, the resolution points to the bald fact that the administration's "good intentions" have been just that and no more.

The Young Commission—unquestionably a blue-ribbon panel—was assembled almost 3 years ago. In January 1985, the group submitted over 400 pages of recommendations and findings to the President.

And those 400 pages have been ignored by this administration.

OVERVIEW OF THE PROBLEMS

This resolution is valuable because it makes us focus on competitiveness. Because the first step in becoming more competitive is to change our attitude.

We still do not think internationally.

We will not forgo current consumption for long-term savings and investment.

We are not trying to learn from the Japanese.

We are not promoting our children's education, particularly in science and technology.

And our business leaders will not sacrifice short-term balance sheet profits for long-term productivity.

The results of this problem are showing.

Take trade, for example. Last year, our trade deficit with Japan alone was 50 percent higher than our 1980 deficit with the entire world.

We as a nation do not put a high priority on exports.

In 1985, U.S. exports accounted for a mere 5.3 percent of GNP. By contrast, Japanese exports accounted for over 10 percent of GNP and West Germany's exports for almost 30 percent of GNP.

Our productivity is slipping.

U.S. productivity grew by only 1.2 percent annually between 1960 and 1983, compared with the substantially better performances of Great Britain, 2.3 percent; Germany, 3.4 percent; and Japan, 5.9 percent.

Our savings rate is much lower than that of any other industrialized country, and this deprives our companies of a pool of cheap capital for investment.

We are not doing enough on education. The average American child watches over 1,000 hours of television a year. It is no wonder that the average 17-year-old American knows half as much math as the average 17-year-old Japanese student.

OUTLINE OF THE BILL

To address these problems, I will be introducing a bill that is designed to complement the Rockefeller-Bingaman resolution and take it one step further.

On trade, the bill instructs the Secretary of Commerce to develop a proposal to establish a semiprivate, nonprofit U.S. export promotion organization similar to those used successfully by Japan, Korea, and others.

It will also instruct our Ambassadors worldwide to prepare annual reports cataloging the measures they have taken to promote exports of U.S. goods and services and to eliminate trade barriers. We simply have to place a much higher priority on exporting.

On R&D the key to our ability to compete over the long run will be the development of a highly skilled, highly trained core of engineers and scientists. The first step will be to improve the quality of scientific and technological education offered by our colleges and universities.

My bill would provide corporations with a 20-percent nonincremental tax credit for the wage costs of loaning their scientists and engineers to colleges and universities, to teach or perform basic research in the sciences.

My bill also incorporates a proposal which passed this body last year which would make available to our companies and research institutions more translations of Japanese technical literature.

Finally, the bill would amend the FOIA to make it more difficult for competitors to secure proprietary information.

I do not pretend that these modest measures will restore us to our position as an unchallenged economic giant. But as Samuel Johnson said, "The future is purchased by the present." Quite simply, we have to act now.

RESTORING AMERICA'S COMPETITIVENESS

Mr. LEVIN. Mr. President, almost 3 years ago President Reagan and his advisers realized that the United States and his administration had a major problem. The American economy was in trouble. Our trade deficit was beginning to grow. We were only slowly climbing out of the worst recession in decades. Our most basic industries were closing factories as foreign producers captured growing shares of our markets with high quality, attractively priced goods. Our traditional edge in high technology was slipping away to countries on the rim of the Pacific Basin. The American standard of living was growing more slowly than all the Western industrialized states except Great Britain. All of these problems and trends were combining to present the administration with a political problem as well. Democrats in Congress and on the Presidential campaign trail were beginning to talk about the need for a new industrial strategy to restore lost vigor to the American economy. Something had to be done.

So what did the President do? He appointed a commission to study the problem. Now, Mr. President, there is nothing necessarily wrong with appointing a commission. It is a traditional Government response when national problems are so complicated or the suggested remedies so diverse that there is a need for creative research and coalition building. What is wrong with appointing a commission, if the problem they are directed to study is a serious one, is a failure to act in some way on the recommendations the commission develops.

That, unfortunately, is what has occurred in this case. The 30 members of the President's Commission on Industrial Competitiveness, chartered by President Reagan on June 28, 1983, spent 18 months documenting the problems confronting American industry in the face of new global pressures and released the traditional well-documented two volume report in January 1985. The Commission concluded the problem of declining American competitiveness was real and serious, and challenged the American Government to—

> Recognize the challenge and its significance. We must equip ourselves with the skills required in the workplace of the future, adopt a flexible attitude toward changing markets and technology, and work together to strengthen the competitive performance of American industry.

The President's Commission crafted a series of recommended Government

actions that formed a program which the Commission proudly pointed out—

Does not require any major increases in Federal spending * * * (with) minimal outlays that represent a prudent investment in the future.

The final report said the challenge of competitiveness must be the economic agenda for the next decade.

But that report and that agenda are gathering dust. In contrast to Presidential Commissions that call for new spending on weapons programs the Competitiveness Commission prompted no response from the Reagan administration. There is no sense of urgency, no repeated Presidential press conference endorsements, no high-level interagency implementation procedure, no legislative strategy to address the critical problems the Commission identified.

That is why our colleague, the distinguished Senator from West Virginia [Mr. ROCKEFELLER], has introduced a resolution calling on the President to report to the Congress on what, if any, plans he has to implement the Commission's recommendations. I commend my colleague for this initiative, and I hope it helps to prod this administration into action.

THE PRESIDENT'S COMMISSION ON INDUSTRIAL COMPETITIVENESS

Mr. CHAFEE. Mr. President, I am pleased to cosponsor this joint resolution seeking implementation of the recommendations of the President's Commission on Industrial Competitiveness. Our ability to compete internationally faces unprecedented challenge from abroad. To investigate this new reality of global competition, the President convened this blue ribbon Commission of 30 leaders from business, labor and academia. This resolution would urge the President to analyze these fine recommendations and to inform the Congress of the administration's plans for their implementation.

For the past two decades the United States has exhibited a declining ability to compete. Our productivity growth has been dismal—outstripped by almost all our trading partners. We are still the world's strongest economy. Yet, the question we must answer is where we will be tomorrow.

We cannot blame all our competitiveness problems on foreign trade and the dollar. The deterioration of our trade balance began more than a decade ago, when the dollar was widely thought to be weak. Some suggest that the best way to preserve American jobs is for Government to erect protectionist fences to limit foreign competition in the United States. I strongly disagree. A far better alternative to protectionism is a policy that encourages American workers and industries to rise up and meet the competitive challenge.

Our primary problem is not the surge of imports, which always rise with strong U.S. economic growth. It's a lack of growth in American exports. We must examine the ways in which the Government hampers competitiveness through unilateral impediments to growth—tax laws, securities laws, and other policies laws which inhibit research and development into new technologies and innovative areas. This is what we want to receive from the administration—it's overall strategy for reinstating the competitiveness of American industry, in order to increase jobs and exports.

Mr. KERRY. Mr. President, I am pleased to join Senator ROCKEFELLER and others in supporting this resolution requiring the President to report on the status and implementation of the recommendations of the President's Commission on Industrial Competitiveness. But I must emphasize that while I strongly support this resolution, I am extremely sorry that it is necessary—but unquestionably, it is.

Responding to the growing concern among economists in academia, industry, and in government that the United States was facing a growing competitiveness problem, almost 3 years ago, in June 1983, President Reagan appointed a distinguished panel of experts to study the problem and make recommendations. Headed by John Young, the distinguished leader of the Hewlett-Packard Co., and staffed with some of the very best talent available, the Commission worked for more than 1 year to study the problems of American business.

The panel considered the full range of factors affecting the American manufacturing economy: productivity; capital formation, management-labor relations, human resource development; international trade; and the industrial policies of other nations. The commissioners' work was bipartisan and nonpolitical. Its goal was simple—to give the President of the United States the very best advice available on the state of the American economy, and to determine whether problems existed which could be corrected with national policy measures.

The Commission issued a report in March 1985 which found that indeed, the American economy faced serious competitive problems; low productivity, high cost of capital, and the growing threat of international competition. The report received a quiet reception in the media and from business, Government, and academic economists not because it was not respected or well executed, but rather because it simply confirmed a basic consensus which had been palpable since the late 1970's.

To most analysts, the major significance of the report was simply that it had, in fact, taken so long for such a consensus to develop at the highest level of government in our country, and the fact that such a respected group of business leaders chosen by the President had acknowledged that our economic future was not unclouded.

Unfortunately, President Reagan has chosen to ignore the Young Commission report, and to ignore the fundamental and growing threat to America's economic future. Our trade deficit continues to grow month by month to a level unimaginable at the time the Young Commission began its work. Our technological lead is increasingly in danger, our labor market continues to be undertrained and underprepared for the demands of the modern workplace, and our corporations are responding to the new realities of the global marketplace not beyinvesting in new American facilities and production, but by becoming in Businessweek's words, "hollow corporations" which rearrange financial assets, market foreign goods, and ignore the fundamentals of production that is essential for continued increases in the American standard of living.

Mr. President, this problem is too big for any individual business, or any one trade organization, or any single congressional committee or executive agency to attack. No matter how patriotic, concerned, or aware of the problem any of us are, it is not enough. Without a national commitment to the problem, it cannot be solved. This is what the Young Commission recommended.

Unfortunately, the President has chosen not only to ignore the plea for a national commitment to the problem, he has chosen to ignore the advice of his own panel, and deny that a problem exists at all. By this resolution, we in Congress can make known our commitment to acknowledge the problem, and to get on with the difficult process of addressing it through national policy before it is too late.

Mr. BYRD. Mr. President, my colleague from West Virginia, Senator ROCKEFELLER, has proposed an excellent—and timely—resolution. The resolution simply calls on the President to provide Congress with a progress report on implementation of the recommendations of the President's own Commission on Industrial Competitiveness, the so-called Young Commission.

No one disputes the fact that this Nation must improve the competitiveness of its industries if it is going to prosper and raise its standard of living in the years ahead. In response to growing concerns about our competitiveness, President Reagan appointed this Commission in late 1983. The President handpicked each Commis-

sion member, primarily from the ranks of business.

The Commission labored for over 1 year and submitted its report in January 1985. While not perfect, the recommendations of this Commission provide a constructive starting point for changing U.S. policies to enhance the competitiveness of industry.

Soon after the Commission completed its report last year, I invited its Chairman, John Young, the chief executive of Hewlett-Packard, to attend a retreat of Democratic Senators in Shepherdstown, WV. There was a discussion of many of the proposals made by the Commission and many Senators expressed the hope that the President would act expeditiously upon them.

Unfortunately, more than 1 year has passed and there is precious little evidence that this administration has taken the recommendations of its own Commission to heart. The work of this Commission is too important to the Nation's future to allow its recommendations to go the way of those from many other commissions. The future of our Nation's competitiveness deserves better than that. For that reason, I urge that my colleagues join in supporting this resolution.

RECOGNITION OF SENATOR WILSON

The PRESIDING OFFICER. Under the previous order, the Senator from California [Mr. WILSON] is recognized for not to exceed 5 minutes.

Mr. WILSON. Thank you, Mr. President.

SENATOR PAULA HAWKINS' SPECIAL ORDER

Mr. WILSON. Mr. President, I rise today on behalf of our distinguished colleague from the State of Florida, Senator PAULA HAWKINS, to insert into the RECORD a floor statement that Senator HAWKINS would make were she able to be present. She is, of course, convalescing from back surgery. We wish her well and a speedy recovery. In order to assist in the flow of business from her office during her involuntary absence. I am making the following statement for her. It is a statement which she has entitled "America's Drugs Problem: Fighting the Demand Side."

And I quote:

AMERICA'S DRUGS PROBLEM: FIGHTING THE DEMAND SIDE

Mrs. HAWKINS. Mr. President, it is now 374 days since one of the suspected murderers of DEA agent Enrique Camarena was indicted in a Mexican court. Another day has passed and still no word of action by the Mexican authorities. Mr. President, this lack of action is disturbing enough in-and-of itself. But it becomes even more glaring as part of a larger picture—a picture of corruption which allows drugs to flow across our borders and threaten our way of life.

The economic, social, and human costs of substance abuse are devastating to our society. We have all seen estimates of the dollar cost to our society, especially the cost of illegal drug abuse. Each year we lose millions of dollars in reduced productivity, health care, crime, and motor vehicle crashes.

But concerns over substance abuse cannot be easily reduced to dollars and cents. Think in human terms and the staggering effect of drug and alcohol abuse upon the emotional and physical health of our society as a whole becomes clear and frightening.

The illegal drug corporations fight for the control of our society through the most basic principle of economics—supply and demand. To be truly effective, the war on drugs must take the same approach. I have long fought for stiff penalties for drug pushers who would profit from destroying young minds. I have pushed for reduced aid for countries that permit the influx of drugs into America. That is the supply side.

But Mr. President, we must concentrate just as hard on the demand side. Fighting drug abuse here at home.

The Senate Subcommittee on Children, Family, Drugs and Alcoholism, which I chair, is responsible for authorizing the National Institute of Drug Abuse (NIDA). NIDA is the Federal government's strong right-arm in our demand side battle. Earlier this year, at the NIDA reauthorization hearing, I learned about one important piece of NIDA research on cocaine that is going on in Florida.

Dr. Jose Szapocznik (pronounced "Suppose-nick") testified at the hearing. He works out of the University of Miami with Hispanic adolescent drug abusers and their families.

Dr. Szapocznik testified that at his center, the family has always been the cornerstone of research.

While there are important moral reasons for maintaining the family as the essential building block of our social fabric, the doctor has also learned of compelling theoretical and scientific reasons for using the family strength in treatment and prevention of cocaine addiction.

Dr. Szapocznik uses the family to stop drug abuse. And it's working. His approach has been shown to eliminate drug abuse with incredible efficiency and in a remarkable short time. In Dr. Szapocznik's latest research group, of the teenagers who came to him for help, every-single-teenager . . . one hundred percent had given up all cocaine use at the time that they finished treatment. In an average of 12 outpatient sessions. These are mind-boggling statistics. Some of the first good news we have had in the drug war in years. And this is not just pie-in-the-sky. This remarkable success rate has been documented extensively.

And the price tag for this remarkable success? Dr. Szapocznik's receives a little over 200-thousand dollars in NIDA research money for this work. Clearly, this is tax money well spent.

Mr. WILSON. I thank the Chair, and I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER (Mr. PRESSLER). Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 5 minutes.

DON'T TAKE AWAY THE RIGHT OF SENATORS TO SPEAK FREELY ON THE SENATE FLOOR

Mr. PROXMIRE. Mr. President, as a Senator who has taken aggressive advantage of the opportunity to speak on the floor of this body every day the Senate has been in session for many years, I was concerned by the statement by the majority leader today that rank and file Members of the Senate are taking too much time in speaking daily in special orders during morning business. The leader indicated that the time for those of us who wish to speak on the floor may have to be aborted, denied, postponed until later in the day, or pushed aside in some other manner.

Now, keep in mind that only a few weeks ago the leadership slashed the time a Senator may speak during morning business from 15 to 5 minutes.

Mr. President, one of the most important distinctions of this body—the Senate of the United States—is that Senators will have a chance to speak their minds freely and fully. More than any parliamentary body in the world, that has been true for nearly 200 years of the U.S. Senate. In the past 60 years that distinction has gradually left this body.

After World War I, the Senate adopted a cloture rule that permitted, at that time, two-thirds of the Senate to cut off debate. Then, 20 years or so ago, Senator John Pastore, of Rhode Island, succeeded in winning adoption of the so-called Pastore rule that limited any one Senator to speak only on the subject before the Senate on any matter that had been pending before the Senate for less than 3 hours. Since most legislation before the Senate takes far less than 3 hours to debate and discuss, the Pastore rule effectively limited Senators who wished to speak on subjects that might have significant national or international import to periods when the Senate was not discussing legislation, and that generally meant during the so-called morning business.

Senators were, up until a few weeks ago, permitted to speak any morning on the floor of this body for 15 minutes. Then came the advent of radio broadcasts—gavel-to-gavel—of Senate proceedings. The leadership, as I have said, decided to slash the time of any Senator who wanted to speak during morning business to 5 minutes. Now we are being warned that 5 minutes may be too much. Senators may be permitted to speak some other time during the day, provided such time became available. Perhaps a time

would be reserved at the end of the day if the Senator could not come to the floor at a scheduled and prearranged time. With this unscheduled and unpredictable time, too bad and tough luck—no freedom to speak on that day.

Possibly Senators would be allowed to speak at a scheduled and prearranged time only twice a week or perhaps once a week or maybe once a month for 5 minutes.

Mr. President, this Senator is not being facetious. Television has not hit this body yet. It will in a relatively few days. In view of the rush to the floor by Members to take advantage of the radio exposure, we can expect an even greater surge when Senate proceedings go to a potential audience of millions on television.

Mr. President, this is one of the many reasons this Senator has consistently and strongly opposed putting this body's regular daily proceedings on television. It will sharply curtail the opportunity of Senators who wish to speak out on significant matters of national importance, to do so, unless that particular subject happened to be before the Senate in legislative form on that particular day.

So what should we do? How do we accommodate television and the desires of a very large proportion of the Members of this body to reach a television audience within the limited time available, without further restrictions on the freedom of Senators to speak their minds freely and fully on the floor of this body?

Mr. President, this Senator's suggestion is that all Senators be allowed to speak during morning business every day by coming in however early is necessary to accommodate this objective. That might be 9 o'clock or 8 o'clock or 7 o'clock or even earlier. This Senator will gladly come in at 5 o'clock in the morning if necessary. Obviously, those of us who are anxious to take advantage of the great tradition of this body to be allowed to speak fully and freely should be ready to make sacrifices, if it is necessary. We will get up early; we will come to work early. But do not take our right to speak our mind every day at a reasonably predictable time away from us.

Mr. President, I realize the convening of the Senate regularly at 8 o'clock or earlier would, under present practices, cruelly penalize the leadership. This is because the Senate leadership under present practice starts the Senate proceedings every day. But why is this necessary? Why could not the Senate convene at whatever time is necessary to accommodate Senators who wanted to speak? The leadership could come to the floor regularly at a later time—say 10 or 11 o'clock, or noon—to transact leadership business.

Mr. President, as I look at the distinguished and able people who do such a fine job of policing the Senate in so many ways, the Parliamentarian and his colleagues, I recognize that this would impose a sacrifice on them, too. I regret that. That is the price I guess we have to pay under the circumstances.

ADD QUALITY OF MILITARY PERSONNEL TO U.S. MILITARY EDGE OVER SOVIETS

Mr. PROXMIRE. Mr. President, in considering the U.S. military status versus the Soviets, what should we look for as the single most significant indicator of success or failure of either military capability? Is it military technology? Is it the economic strength that can produce the necessary military weapons? Is it the strength of the alliances the Nation may enjoy? All of these elements certainly contribute to military power and success. But, Mr. President, there is another frequently neglected element that is most important of all. It is the skill, the training, the morale, the discipline of the personnel that makes up the military forces. We learned that lesson in Vietnam. The Soviets are learing it in Afghanistan.

So how does the United States compare with our great superpower adversary in the quality of our personnel? First, there is no question the Soviets enjoy some advantages. Their population is larger. Their standing military forces are about twice as numerous. Their reserve military forces include every male citizen between the ages of 20 and 55 who is not on active duty. And virtually all the able-bodied Soviet population between 20 and 55 have served in the armed forces, a large proportion of them within the last 10 years. Soviet military personnel also showed impressive effectiveness in fighting Hitler's forces in World War II. The Soviets not only displayed great courage and endurance; they also demonstrated impressive military skill.

These are critical Soviet advantages, but today's Soviet military man also suffers some very serious weaknesses. In fact, the weaknesses are so severe compared to the military strength of American personnel that they constitute a serious Soviet disadvantage. A few weeks ago, the Secretaries of this Nation's Army, Navy, and Air Force testified over several days before the Defense Appropriations Subcommittee of the Senate. They were accompanied by the Chiefs of Staff of the three services and the Marine Corps.

As so often happens to good news in this country, the story did not get on the front page of the newspapers or in the big television network prime time evening news. But the news was not just good, it was terrific. Take the indicators of discipline in the U.S. Army. Violent crime by army personnel has been cut in half in the past 10 years. Since 1974, crimes against property have dropped to one-fifth of their rate 10 years ago. One-fifth, Mr. President. Desertion is down to a bare 25 percent of its level in 1974. How about absence without leave? That has dropped by a remarkable 80 percent.

Now, Mr. President, these are objective criteria. This is not hype. It is not self-praise. It is not rhetoric. These are cold, hard facts. This is the record. In every case, the objective measures of morale and discipline are by far the best of any time they have been in 10 years or more. The records of the Navy, the Air Force, and the Marine Corps show a similar astonishing improvement. Alcohol and drug abuse have both dropped spectacularly; and in all services. So our military personnel meets the first requirement of military behavior; that is, discipline far better than before and very possibly better than ever.

How about the capability of our military personnel as measured by their educational level? Mr. President, the educational level of U.S. soldiers, sailors, marines, and airmen has never been as high as it is today. Consider this: The total has risen from 61 percent with high school diplomas in 1980 to 93 percent today!

Compare this with the Soviet military personnel. Secretary Gorbachev, like his predecessors, has been trying to reduce the alcoholism problem in the Soviet society and, of course, in the Soviet military forces. He has a very formidable challenge. In a recent article in "Military Review," Prof. Richard Gabriel, who has been on duty with the Foreign Intelligence Directorate, has written that "Russian soldiers have at least the same high rates of alcoholism and alcohol-associated pathologies as the society at large and probably considerably higher." He quotes Victor Belenko, a recent Soviet Air Force defector, that his brother officers and his ground crew were drunk virtually all the time. Gabriel reports "a staggering number of assaults on officers by enlisted men who were drunk—a phenomenon virtually unknown in the American Army."

How about the training of Soviet military personnel? Joshua Epstein is a defense analyst at the Brookings Institution. He recently compared U.S. maintenance crews with their Soviet counterparts. He found that U.S. maintenance crews are 40 percent larger than similar Russian crews and receive twice the training time as their Soviet counterparts. A study of the Soviet Air Force prepared for the CIA in 1981 concluded training was "surprisingly 'pro forma' with little continuing effort to enhance skills under realistic conditions. Many of their sorties appear to be rather canned 'once around the flagpole and back' "

According to intelligence analysis, Soviet fighter pilots receive less than half the flying time that U.S. pilots do—7 hours per month compared with 19. Sally Stoeker, a Soviet specialist for the Rand Corp., reports that "many Soviet sailors are not trained to handle weapons or fight at night."

How about the awesome advantage for the Soviets in the size of the reserves compared to American reserves? Here is what Andrew Cockburn writes in his book, "The Threat Inside the Soviet Military Machine": "Soviet reservists, unlike those in Western armies, receive no training or weekend duty calls after they leave the active force. Furthermore, only about 1 percent of the U.S.S.R's active soldiers reenlist once their conscription ends." The actual de facto manning table for Soviet forces is even worse, according to the U.S. Defense Department. Fifty-five percent of the Soviet Army's estimated 190 divisions have less than half of their required personnel and equipment on hand: 20 percent have between half and three quarters. Rated by U.S. standards, this would mean that these Soviet divisions would be classified as not ready.

How do we explain this dramatic improvement in the morale and discipline of American military personnel? Two factors stand out. First, over the last 10 years, the pay of military personnel has consistently and sharply improved. As anyone who has ever hired employees to do a job in this American society can tell you, you get what you pay for. Higher pay has brought in personnel with better educational backgrounds. Recruiters can be choosers instead of beggars. They can take the pick of the litter, not the runt. In view of the supreme importance of personnel in military achievement, we should keep this firmly in mind while we determine our military priorities under the intense pressure of Gramm-Rudman.

Second, this remarkable 10-year improvement in morale and discipline of the American military dates roughly from the end of the draft and the beginning of the All-Volunteer Armed Forces. This Senator served in the peacetime draft Army for 9 months before Pearl Harbor in World War II. From that experience, I am positive that soldiers who are in the Army against their will may have talent but they do not have the motivation. They do not have the morale. They do not have the espirit de corps. They do not have the pride and enthusiasm in their unit. Volunteers are far more likely to have all of that. The Soviets have a drafted armed force. Ours is all volunteer. That is why AWOL, desertion, "gold-bricking" and low level of performance permeates the Soviet Armed Forces. It is why the U.S. Armed Forces have on the record improved so dramatically during the past 10 years.

Unquestionably the Soviets have an advantage over the American military force in sheer size. Just as the Chinese have a size advantage over the Soviet forces. But in the crucial military ingredients of morale, discipline, training, readiness, and the skills that come from actual flying time, sailing time, and maneuver time, the United States has a personnel advantage that ranks with U.S. superiority with respect to technology, economic strength, weapons superiority, the military strength of allies, and geographic position. The Russians certainly are not 10 feet tall. They are not 3 feet tall, either. But if ever it could be said that a great nation enjoyed the military power that permitted it to negotiate arms control from strength, it is the United States versus the Soviet Union in 1986.

Mr. President, some of the material in this speech came from an excellent article written by Fred Kaplan in the Boston Globe.

I yield the floor.

Mr. JOHNSTON. Mr. President, first of all, I congratulate and commend the distinguished Senator from Wisconsin for another one of his very thoughtful and very incisive statements on military power.

I think he contributes a great deal to the quality of the Senate's debate as well as the knowledge of the Senate and the country on matters involving the Armed Forces, our relative military posture as well as arms control.

I, for one, am very grateful to him for the thoughtful and in-depth research that he has provided for us in this and other speeches.

MYTH OF THE DAY: HIGHER SPENDING EQUALS HIGHER QUALITY SERVICES

Mr. PROXMIRE. Mr. President, the myth of the day is that higher spending equals higher quality services.

You would think that we had learned our lesson that throwing money at problems does not solve them. But this myth blooms like a hardy perennial every spring in Washington and State capitals across the country. Curiously, it blooms at budget season, fertilized by a host of lobbyists, special interest groups, and corporations who stand to benefit at the taxpayers' expense.

But we often find evidence that money, by itself, does not solve our social problems, nor our national security problems.

A case in point is a recent report by the Health Research Group here in Washington, a project affiliated with Ralph Nader's Public Citizen organization.

In a report entitled "Care of the Seriously Mentally Ill," Drs. Fuller Torrey and Sidney Wolfe, came to a heretical conclusion in their review of State programs dealing with the very serious and tragic problems of the seriously mentally ill.

What did they find? Drs. Torrey and Wolfe found no correlation between a State's wealth, its per capita mental health expenditures, or its Federal allocation of supplemental security income [SSI] funds or Social Security disability income [SSDI] funds and the quality of services provided to these deserving Americans.

That is right, Mr. President. No correlation between dollars and quality.

In fact, overall State expenditures averaged $30.27 per capita while Wisconsin, the State with the highest ranking for its quality programs, spent one-third less per capita—$20.32.

And what is more, the next highest four States similarly spent an average or less than average amount of funds per capita.

Mr. President, my point is simple. Money is vital to these programs. Many of these individuals are unintended victims of well-intentioned efforts to deinstitutionalize the mentally ill over the last two decades and they desperately deserve our full support. In fact, we may well not be doing enough.

But as Wisconsin, Rhode Island, Colorado, and other States have proven, money is not the sole answer. It is leadership. Creativity. An awareness of how to integrate incentives for efficient management into programs. And most of all, it is heart.

The badger State has proven that conclusively in this area. And we need to spend a little more time helping States to learn from successful examples and, thereby, increasing the efficiency of our programs. And we need to spend a little less time debating percentage increases in programs. It is clear that the answer does not lie with budgets alone.

Mr. President, I ask unanimous consent that an article from the American Psychiatric News summarizing this study be reprinted in the RECORD.

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

STUDY RATES MH CARE QUALITY BY STATE

The quality of state mental health services for the severely mentally ill is not determined by the amount of money poured into such services, according to a study released at a March press conference at the Health Research Group (HRG) in Washington, D.C. Internist Sidney M. Wolfe serves as director, and psychiatrist E. Fuller Torrey led the study. HRG is a component of the Public Citizen, a nonprofit organization founded by Ralph Nader.

Torrey and Wolfe described the study as the first state-by-state comparison of inpatient and outpatient programs for the approximately 2 million seriously mentally ill persons in the United States. Torrey told the press the study was designed to answer one major question—"If I had a mentally ill

relative, in which states would he or she be better off?"

The states emerging with the highest combined rating for inpatient and outpatient services were Wisconsin, Rhode Island, Colorado, Maine, Oregon, Iowa, and New Hampshire. The states with the lowest ratings were West Virginia, South Carolina, Montana, Texas, Delaware, Mississippi, New Mexico, and Hawaii.

Torrey and Wolfe found no correlation between the quality of services and the state's wealth, its per capita mental health expenditure, or its Federal allocation of SSI/SSDI funds. For instance, the study observed, states spend an average of $30.27 per capita on mental health programs for the seriously mentally ill; however, Wisconsin, the highest ranked state, spends only $20.32 per capita. The next four highest ranked states also spend "an average or below average amount of money" on mental health programs, Torrey said.

In contrast, the District of Columbia spends more than any state on mental health programs—$176.17 per capita—yet the study ranked the city 43rd.

After Washington, D.C., New York comes in as the second biggest spender, allocating $74 per capita. Despite this large expenditure, the study slated New York 26th among the states.

Arizona spends less than any other state—$9.51 per capita—and was ranked 33rd by the study.

The study also considered the progress states are making toward improving their programs. "The states moving ahead most strongly are Colorado, Florida, Maine, Ohio, Oregon, and Rhode Island," the study maintained. States beset by "major problems" that impede reform are Alaska, Arizona, Arkansas, Louisiana, Minnesota, South Dakota, and Wyoming.

Torrey and Wolfe conceded that their methodology was flawed by the subjective nature of some of their data and the varying amounts of information available for each state.

The ratings were based on surveys of state psychiatric hospitals conducted by HCFA, JCAH, and state departments of mental health, and on NIMH investigations of community mental health centers, states' handling of mental health block grants, and community support projects.

In addition, the authors interviewed about 20 mental health professionals who had extensive experience with several state delivery systems. They also asked each state affiliate of the National Alliance for the Mentally Ill (NAMI) and a network of expatient groups to assess state services.

Torrey and Wolfe concluded that "only a handful" of local and state programs are "providing high-quality services for the seriously mentally ill." Because mental health planners failed to assure that resources would follow patients into the community, deinstitutionalization was simply "put on automatic pilot," they wrote.

The authors further maintained there is no correlation between the quality of state programs and the per capita number of psychiatrists and psychologists practicing in the state. According to their study, programs in states with the highest number of psychiatrists and psychologists per capita (D.C., New York, Massachusetts, Maryland, and Connecticut) "are only slightly, but not significantly, better" than those states with the fewest psychiatrists and psychologists (Mississippi, Idaho, Arkansas, Alabama, and Louisiana).

Torrey and Wolfe criticized APA, the American Psychological Association, and the National Association of Social Workers, charging that the groups are not truly concerned with the needs of the seriously mentally ill. Torrey acknowledged John Talbott, M.D., immediate past president of APA, as "a rare exception" among mental health professionals because of his unflagging support for patients in the public sector.

CONSUMER GROUPS LAUDED

In contrast, the study saluted the work of religious groups, consumer groups such as NAIM, and expatient groups such as Maryland's On Our Own. Strong leadership and active consumer groups "are the two most important factors in improving services," the study said.

NAIM President Jim Howe told *Psychiatric News* that he would like to see state-by-state comparisons of mental health services become "an annual affair." When questioned about the study's assertion that consumer groups must bear the primary responsibility for public education and lobbying, Howe said he hoped the authors "don't mean to exclude providers, both profit and nonprofit, from acting as advocates for the mentally ill." He noted that many providers are already advocating "very successfully."

Among the study's specific recommendations were making block grants of SSI/SSDI funds to eliminate conflicts between Federal and state governments; decentralizing services to a regional or county level; and encouraging consumer groups to meet with HCFA and JCAH survey teams. (NAMI President Howe said NAMI has recently begun exploring this possibility with the JCAH Board in Chicago.)

"RIGHT DIRECTION"

"As painful as it might be for some states, I think it's a step in the right direction to force public mental health systems to consider how they provide services for the seriously mentally ill," said former APA president John Talbott, M.D., reacting to Torrey and Wolfe's analysis of mental health services by states.

Talbott added that he had some reservations about the study's methodology, which he believes may not have given enough weight to demographic and geographic differences between the states.

Talbott, who is professor and chair of the department of psychiatry at the University of Maryland School of Medicine in Baltimore, also discussed the problem of recruiting psychiatrists into the public sector. He pointed to the accomplishments of the Maryland Plan, which has recruited young pyschiatrists to the state's facilities and established strong links between state hospitals and the University of Maryland School of Medicine. "In 10 years, 155 university-trained psychiatrists have entered the public system," Talbott said. "It's terrific evidence that . . . you can attract top-flight professionals."

Torrey and Wolfe also praised the Maryland Plan in their report. They suggested that states with severe shortages of mental health professionals, such as Mississippi, Idaho, and Arkansas, might launch scholarship or loan programs requiring recipients to repay their debts by serving for a specified time in the state mental health system.

Mr. GORE addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. GORE. Mr. President, I would be delighted to yield 4 of my 5 minutes to the Senator from Wisconsin if he wishes to use it.

Mr. PROXMIRE. Mr. President, I appreciate very much the gracious and generous offer of my friend from Tennessee. But I am sure that what he has to say is at least or more valuable than what I have to say. I have spoken so many times that I like to listen to him.

Mr. GORE. I appreciate my colleague's warm words.

Mr. President, I would like to defer my remarks until the Senator from Washington arrives on the floor. I will take my 5 minutes after he presents his remarks.

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

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

RECOGNITION OF SENATOR GORE

The PRESIDING OFFICER. Under the previous order, the Senator from Tennessee [Mr. GORE] is recognized for not to exceed 5 minutes.

Mr. GORE. I thank the Chair.

Mr. President, I ask unanimous consent that the remarks I am about to make appear in the RECORD after the remarks of the distinguished Senator from Washington [Mr. EVANS].

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

S. 2328—A BILL TO PREVENT PRIVATIZATION OF POWER MARKETING ADMINISTRATIONS AND TVA

Mr. EVANS. Mr. President, I am introducing a bill today to prevent the administration from carrying out a foolish and ill-conceived idea—the privatization of the power marketing administrations. In its fiscal year 1987 budget documents, the administration has proposed to initiate a process leading to the privatization of the five power marketing administrations by the end of 1991. The rationale and process for carrying out such a far-reaching proposal are not explained. It merely states that such a process will be guided by three very general principals, including "seeking a fair return to the Federal taxpayers" and "recognized the benefits currently enjoyed by existing customers." Nobody in the administration appears to know what these words actually mean and no administration official I have discussed this with so far has been able to explain and justify adequately this initi-

ative. They show a remarkable lack of knowledge about electric power systems and the regions that these PMA's serve, including the economy of the Pacific Northwest that the Bonneville Power Administration serves.

The administration seems to be confused between two different and competing motivations for such an initiative: budgetary and ideological. Do they expect to extract a huge amount of money out of the PMA's to reduce the Federal budget deficit over the next 5 years? If so, how do they intend to account for the forgone revenues, both from principal and interest, that the Federal Government is receiving from these very same PMA's? For example, Bonneville paid more than $670 million in principal and interest to the Federal Government in fiscal year 1985. Or, as it appears more likely, is the administration proceeding from primarily ideological reasons to get the Federal Government out of the business of producing and transmitting electricity? The indications thus far are that the administration is proceeding from the latter motivation. It is only in that context that we might understand the double whammy that the PMA's are receiving from the administration's fiscal year 1987 budget: A proposal to accelerate repayments of the Federal investment and, at the same time, a proposal to privatize that investment. In any case, most of the analysis and study behind the privatization proposals seems to be coming from think tanks such as the Heritage Foundation, which demonstrate a fundamental lack of knowledge and misunderstanding about the role the PMA's play in the economies of different regions of the country.

The reason I am introducing this bill now is that I believe the privatization proposal is causing substantial uncertainty among businesses and individuals in the Pacific Northwest and other areas of the country. The proposal has caused especially adverse results in the Pacific Northwest because the Bonneville Power Administration plays such a major role in our region's economy. Businesses and industries were built on the basis of cheap, reliable hydropower distributed uniformly to all entities in our region. Thus the Pacific Northwest is much more dependent on electric energy than other areas of the country. There are already clear signs of uncertainty in our region. New companies which may decide to invest in the region are expressing uncertainty about the future of electric power supply at reasonable rates. Existing companies delaying back from additional investments due to this uncertainty. For example, Alcoa Aluminum has announced publicly that it plans to shut down permanently 25 percent of its smelting capacity by the end of 1986. It has two large smelters that are at risk in my State. With that type of uncertainty in the Pacific Northwest now, corporate planners could easily decide to make those cuts in our area. Additional production capacity, when and if it occurs, will probably go overseas. This would undermine the genuine efforts that Bonneville has made over the last year to keep aluminum production operating within the region through short-term incentives rates and other proposals.

In any privatization scenario, rates will go up. Various groups have done preliminary studies on the rate impact, with differing results. Such estimates, of course, depend greatly on the assumptions on the sales prices, interest rates, ability to use tax-exempt financing, and so forth. I believe that it is unrealistic to assume a sales price less than the $8.9 billion for Bonneville that the administration has published as its starting point for privatization discussions. Anything less is dreaming, in my view. The Northwest Power Planning Council, of which I was formerly chairman, recently carried out a study of the rate impact of such a sales price, assuming a sale to a private corporation using taxable bonds with an AA rating. I believe that auctioning off to the highest bidder, with no preference for tax-exempt financing, is the likely scenario. The council found that such a sale would result in a 71-percent rate impact.

The administration somehow believes that ratepayers in the Pacific Northwest pay too little for electricity. However, the aluminum companies are already seeking rate relief and account for 20 percent of the region's load. The California utilities are refusing to buy surplus Northwest nonfirm power at current rates since oil-fired generation is now cheaper. British Columbia Hydo seeks to market hydropower to Northwest utilities at rates below some current charges.

It is obvious, therefore, that the administration cannot succeed in raising rates necessary to justify the sales price they suggest. They have proposed a classic catch-22 proposition. Sell at a high price, which would raise rates, which would reduce electric sales drastically, which would make a high sales price impossible.

My bill is short and quite simple:

First, it prevents the administration from the "sale, lease, transfer, or other disposition" of any of the multipurpose dams or transmission facilities for a period of 10 years upon the date of enactment;

Second, the prohibition covers all the essential activities of the PMA's—the generation and transmission of electric power. It does, however, allow the sale of property and assets under various statutes that are necessary in carrying out the normal business of operating a utility of the size and complexity of the PMA's;

Third, the bill applies to the Bonneville Power Administration, the Tennessee Valley Authority, the Western Power Administration, the Southeastern Power Administration, the Southwestern Power Administration. It, however, does not apply to the Alaska Power Administration since there are current discussions between the State of Alaska and the DOE over the transfer of these assets. It must be emphasized that the Alaska Power Administration's hydroelectric assets are very small and simple compared to the assets of the other PMA's.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD and that several articles and editorials attached be included in the RECORD.

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

S. 2328

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That for a period of ten years from the date of enactment of this Act, no federal official may solicit proposals or accept offers for the sale, lease, transfer, or other disposition, either in whole or in part, of any power production or transmission facilities located in the conterminous forty-eight states which are owned or operated by any federal agency and whose electric energy is transmitted for sale by a federal power marketing administration or by the Tennessee Valley Authority; *Provided,* That this provision shall not apply to: (1) the authority granted under Section 2(e) of the Bonneville Project Act of 1937; (ii) to the authority of the Tennessee Valley Authority pursuant to any law under which it may dispose of property in the normal course of business in carrying out the purposes of the Tennessee Valley Authority Act of 1933, as amended; (iii) to any business transactions involving the production and transmission of electric power among federal officials that may occur in the normal course of business; (iv) to the authority of the Administrator of the General Services Administration pursuant to the Federal Property and Administration Services Act of 1949, as amended, and the Surplus Property Act of 1944 to sell or otherwise dispose of surplus property.

STATEMENT OF RICHARD K. PELZ [1]

I have retired from government service at this time because I am opposed to the Administration proposal to sell the Bonneville Power Administration and the other power marketing administrations of the Department of Energy. I cannot in good conscience work to implement this proposal because I believe it is economically disruptive, fiscally

[1] Richard K. Pelz has been the senior power marketing attorney with the Department of Energy in Washington, D.C., and with the Department of the Interior before the power marketing program was transferred, for 19 years. He is the editor of a three-volume reference work on federal water and power law entitled "Federal Reclamation and Related Laws Annotated." He is Vice President of the Federal Executive and Professional Association. He has retired after 34 years of federal service.

irresponsible, administratively harmful, and intellectually dishonest.

The Bonneville Power Administration is the foundation of the bulk power supply arrangements in the Pacific Northwest. It supplies 65 percent of the power and has built and operates 80 percent of the high voltage transmission system. It has contracts for power or transmission services with all of the utilities and most of the heavy industry in the region, and with numerous utilities outside of the region. After raising rates more than 600 percent in six years, it has pledged a period of rate stability so the region can catch its economic breath. To help the aluminum industry through the serious economic difficulties it is facing and to keep it operating in the region, Bonneville has proposed a variable rate pegged to the world price of aluminum.

The Administration proposal fundamentally to alter the ownership and operations of Bonneville and to further raise its rates will seriously disrupt the business arrangements upon which the economic health of the region depends. Plans for power supply have to be made years in advance. The uncertainty created by the Administration proposal may well drive the aluminum industry to leave the region and certainly will cause other disorder in the industrial and commercial life systems of the Pacific Northwest.

The Administration proposal is fiscally irresponsible because fire sales of government assets do nothing to solve the underlying fiscal problems that are leading to steadily growing budget deficits. In fact, such sales will probably make the fiscal situation even worse in the years to come. Bonneville pays more money into the Treasury than it take out. Last year it made a payment of $600 million—$374 million for imputed interest on unamortized investment and $226 million to repay a portion of that investment. If Bonneville is sold, not only will this annual income stop, but there are at least four kinds of hidden costs that almost surely will not be fully passed on to the buyer. First, Bonneville performs a combination of proprietary functions—such as the sale and transmission of power—and governmental function—such as conservation, fisheries development, environmental protection, and negotiations with the Canadian and British Columbia governments. Today, revenues from the proprietary operations pay the cost of the governmental function. If the two are split, the taxpayers will have to start paying for the governmental operations. Second, the sale of Bonneville will engender litigation that will be costly to the United States. Third, the new buyer will insist on placing a limit on Bonneville's existing open-ended obligation to subsidize future irrigation development. Fourth, in order to obtain agreement from a reluctant Congress to pass legislation authorizing the sale, the Administration inevitably will be forced to make deals that will diminish the monetary returns to the Treasury initially and over time.

The Bonneville Power Administration is the finest federal agency that I have encountered in my 34 years in federal service. It is lean, productive, efficient; everybody works hard and morale is high. The Administration proposal will divert scarce resources of time and skill away from more constructive efforts to help the region and the Treasury. More importantly, it will seriously harm the organization. The committed people who work for Bonneville do so in significant part because of a conviction they are serving the public interest. To tell them their only motivation should be private gain will undermine morale, disillusion many of the best people and cause them to leave, and disrupt the smooth functioning of this outstanding agency.

It is intellectually dishonest for the Administration to submit a budget to Congress that shows any significant revenues from the sale of Bonneville and the other power marketing administrations (PMAs) in near future years. The legal, technical, financial, administrative, and political problems to be resolved before a transfer can be consummated are enormous. For example: What do you do with the federal dams, which are operated by the Army Corps of Engineers and the Bureau of Reclamation for many purposes besides power, such as navigation, flood control, municipal and industrial water supply, irrigation, fish and wildlife and recreation? Do you transfer just the right to the power output, the powerhouse, or the complete dam and reservoir including the powerhouse? How is the buyer going to finance the transaction? If the buyer is a public agency, will it be permitted to issue tax-exempt bonds, which will reduce the returns to the Treasury? To what extent will the buyer assume responsibility for fish end wildlife programs, for conservation programs, for compliance with the Columbia River Treaty with Canada, for reimbursing the Treasury for the costs of past and future irrigation projects, etc? On what basis will price be determined? What happens to the Pacific Northwest Planning Council? Will the buyer be bound by the long-standing federal principles of preference in the sale of power to public bodies and cooperatives and of rates based on the recovery of costs without making a profit? What happens to the employees of the PMAs and the other affected federal agencies?

These problems and many more would take years to resolve even if there were a consensus in favor of the transfer, which there is not. The Administration's proposal to sell the PMAs popped up a month or so ago as somebody's bright idea about how to temporarily reduce the budget embarrassment and meet the Gramm-Rudman-Hollings targets. No serious staff work had been done in the Department of Energy to analyze or support it. The Administration proposed last year in the FY 1986 Budget to raise the rates of the PMAs through measures labeled repayment reform. This proposal was stopped dead in its tracks by Congress. Yet the proposed sale of the power administrations would lead to much higher rates. The Administration also proposed last year that the Alaska Power Administration be sold. This is a far simpler and far less controversial transfer to accomplish than transferring any of the other PMAs—it involves only two small single-purpose power projects, each with a radial line serving only one isolated market area; and the Alaska Power Authority, a state agency newly entering the power industry, is a logical customer. Yet the Administration a year later still has not submitted a bill to Congress to implement the proposed transfer because of a lack of interest and a lack of agreement on details. In view of this record, no assumption as to an early sale of any PMA other than Alaska can possibly be justified.

I have focused on Bonneville because it is the largest power marketing administration, but the same analysis applies to the other PMAs as well. They have raised their rates substantially in recent years. They pay back to the Treasury each year more than they spend. They have entered into power supply arrangements that are important to the regions they serve and would be seriously disrupted by the sale of the agency. They perform governmental functions as well as proprietary ones. They sell power from multiple-purpose dams operated by other federal agencies, the best known of which is Hoover Dam on the Colorado River. They are staffed by competent people committed to serving the public interest. There are hidden costs that would not be covered in the transfer. There is no political support for selling them, and there is a great deal of political opposition to a sale. Congress should reject the proposal to sell them—as well as the proposal to sell Bonneville—out of hand.

[From the Seattle (WA) Times, Feb. 27, 1986]

I'D BUY IT MYSELF AND TURN OUT LIGHTS

(By David S. Broder)

WASHINGTON.—The word is an atrocity, but the most appealing notion in President Reagan's 1986 program is "privatization." Selling off some of the government's facilities or functions to private enterprise or individuals is a jimdandy idea.

I am attracted to it in part because one of the things Reagan has in mind selling soon is the Bonneville Power Administration on the Columbia River, and I have been a Bonneville freak since I was 16.

That summer, two buddies and I celebrated the end of the war and our escape from home by bumming around the West. Bonneville Dam was the biggest thing I'd ever seen—a marvel to behold.

In the summer of 1969, when my own family was on the mandatory Western trip, I dragged my four sons off to see the dam for themselves. They complained bitterly on the drive over that they hadn't had time enough to gallivant around on Mount Hood. But when we descended into the great dam and felt the pounding of its power-plant turbines, they were as awed as I had been almost a quarter-century before.

The sale, to be honest, does not come up at a convenient time. I have some unexpected expenses around the house, and the car has not been running smoothly. But if there is a chance to buy Bonneville, I'm going to buy it.

In megalomaniacal moments, I think what fun it would be just to stand there with my hand on the switch and say, "Goodnight, now, Portland," and turn out the lights.

But what I really covet is the fish ladder. It would be great to go down to the dam at the end of a trying day and just watch the salmon go by. My salmon climbing my fish ladder. Feel like some salmon for dinner? Well, sure. How about that one? Help yourself.

Sen. Mark Hatfield, R-Ore., was quoted as saying that Bonneville would be sold "over my dead body." But you know that in politics, money talks, and I figure Hatfield just wants to be sure Reagan gets a good price.

It did bother me some that Fortune magazine, which might have been thought likely to understand the attractiveness of privatization, had an article by Lee Smith saying, "The administration's plan to sell off the government is a political, not an economic, measure."

But as I thought about it, Smith's proposition became less offensive and more accurate.

Indeed, nothing so clarifies the question as to whether something should be done by

the government as to ask: Is it something you'd want if the government were offering it for sale?

There are many things beyond Bonneville I'd like to buy from the government, but "nonlethal aid" to the contras would not be among them. Far more appealing to me are a couple of lighthouses in northern Michigan or that underwater national park off St. John's in the Virgin Islands.

If the notion catches on, it could produce some healthy competition among Cabinet members. Suppose that Reagan establishes an incentive program in which the more a department sells, the more money it will have to buy some new things. Cap Weinberger would have funds for the Strategic Defense Initiative lasers only if he could peddle several hundred of his Bradley Fighting Vehicles as being for freeway and RV use in California.

Similarly, on the domestic side there is much to recommend the privatization strategy. If you were running the Department of Agriculture, would you give out food stamps to good customers? I suspect that in order to keep the farmers going in these tough times, I would, and not grudgingly, either.

I know it would be great to have clinics for expectant mothers and premature infants operting under my name, to say nothing of having an aircraft carrier or two at one's call. No mugger is going to give you any trouble when he understands you have your own aircraft carrier, just over the horizon.

If the Department of Transportation underwent privatization, there might still be subsidies for mass transit—but not for any city with so little pride that it tolerated graffiti on its subway cars or Mayor Koch at the controls.

The Treasury Department would give out toaster ovens to those patriotic enough to buy bonds, and if you made a really big purchase to help refinance the debt, you might get a compact-disc player.

The Department of Justice could sell its own brand of affirmative-action certificates, in gold or silver, reading: "I'm so sincere in my belief in equality, I don't have to prove it."

There really is no limit to the privatization strategy—except at the White House fence. I don't think we should sell the White House, no matter what complaints we may have about the way Donald Regan runs it. There has to be someone in America tough enough to fire Lee Iacocca, and Regan just proved he is the man.

Any week that liberates Ananoly Shcharansky from the Soviets' grip and the Statue of Liberty from Iacocca's embrace is a great week for privatization.

[From the Seattle Times/Seattle Post-Intelligencer, Feb. 16, 1986]

SALE OF BPA THREAT TO NW

The future of the federal Bonneville Power Administration is an issue of increasing concern in the Pacific Northwest as well as in Washington, D.C. It results from the Reagan administration's proposed sale of the agency within the next few years and, in the meantime, accelerated payments on the region's BPA debt to the U.S. Treasury.

Both of these proposals would be damaging, perhaps even devastating, to the Northwest economy which is so heavily dependent on relatively low electric-power rates.

One possible means of dealing with this threat, under discussion, is regional, four-state purchase of the BPA system and its hydro-electric power assets to enable the Northwest to gain control of its own economic destiny. That could be an ultimate answer, but it's far from a problem-free solution. The best outcome would be for the BPA's current status, including its regional debt repayment structure, to be maintained. It's to that end that the region's efforts in Congress must be addressed.

Sen. Dan Evans, R-Wash., former chairman of the Northwest Power Planning Council and member of the Senate Energy Committee, has become a leading spokesman on behalf of maintaining BPA's status quo.

In arguing against accelerated Northwest payments on the BPA debt, which would raise electric rates accordingly, Evans notes that higher rates would not necessarily produce more federal revenue because they would be accompanied by a decline in regional economic growth and stability.

As for sale to the highest bidder, the most likely prospect would be BPA's purchase by California utilities which drool at the thought of diverting Northwest power to the Southwest.

"This is clearly the option that we must fight most strongly," notes Evans.

As for a regional BPA buyout, problems would include the need to renegotiate some 10,000 existing BPA contracts, the fact that public utilities could lose their priority rights to regionally generated power, and the danger that a regional entity could have less authority to prevent a California power grab than the federal BPA.

A regional buyout remains a possible option worthy of further study, but maintenance of BPA's existing status clearly should be the Northwest's goal for now.

[From the Puget Sound Business Journal, Feb. 17, 1986]

SALE OF BPA SYSTEM WOULD CAUSE CHAOS

The only beneficiaries of the Reagan administration's proposal to sell the Bonneville Power Administration likely will be attorneys.

That's the only clear conclusion people can draw from the state of near chaos into which the Northwest's energy planning has been thrown by the administration's desire to "defederalize" the region's federally controlled power grid.

Before any sale takes place, a thicket of practical and legal questions needs to be addressed.

What, specifically, is for sale? The BPA owns the major electrical grids in Washington, Oregon, Idaho and western Montana and the huge intertie line connecting the region with California. But it doesn't own any of the 30 dams from which it obtains power—they're owned by the U.S. Army Corps of Engineers and the U.S. Bureau of Reclamation.

What happens to preference? Under current law, Bonneville must give first priority to power customers in the Northwest, especially municipal utilities or public utility districts. In any sale, if preference is maintained, investor-owned utilities likely will object in court. But if preference is eliminated, public utilities are bound to moan before the bench.

What happens to BPA's antitrust immunity? As a federal agency, Bonneville is exempt from provisions of the Sherman and Clayton Antitrust Acts. But that wouldn't be the case if a private entity took over the agency.

What happens to the separate contracts Bonneville has with some 10,000 parties? Those contracts can't be changed without the consent of both parties, so all likely would have to be renegotiated.

How will the sale affect Bonneville's WPPSS liabilities? Bonneville has acquired the power produced by WPPSS plants Nos. 1, 2 and 3. But if the federal agency is no longer a party to the power agreements, bondholders of those projects might fear that the security of their investment has been jeopardized. They could go to court arguing that the sale has brought their bonds into technical default and demand immediate payment of principal and accrued interest on their investment.

Only lawyers can get excited about these questions. But they should make the rest of us shudder.

During the 1980s, energy and securities attorneys have turned WPPSS litigation into a professional welfare trough. The Reagan administration's BPA proposal looks like it would perpetuate that welfare system well into the next decade.

[From the Idaho Statesman, Mar. 26, 1986]

SELLING BPA: IT AIN'T BROKE, SO WHY FIX IT?

For nearly 50 years, the Bonneville Power Administration has been as integral to the economy of the Pacific Northwest as the high-voltage power lines that crisscross the Cascades. Selling the BPA could unravel all that.

Born of the Reagan administration's philosophy that government shouldn't do what private industry can, the president has proposed selling the electrical giant. As a practical benefit, the $8.85 billion sale price would help reduce the federal deficit.

How deeply ingrained the BPA has become in the Northwest is measured by the nearly unanimous opposition of regional politicians to its sale. It's one issue on which Idaho's conservative Republican Sen. Steve Symms and moderate Democratic Gov. John Evans—who are running against each other for the Senate this year—agree.

First off, the $8.85 billion asking price is all wrong. The BPA values its worth at $22 billion. The Heritage Foundation think tank suggests $38.8 billion as a price tag. The president's figure would only dent the deficit.

Secondly, there's not evidence that the BPA could be better run by private enterprise. Its customers—about half the electricity users in the Northwest, including 200,000 Idahoans—seem happy with the service. A big reason is that its electric rates are the nation's lowest. Under Administrator Peter Johnson, a former Trust Joist Corp. president, the BPA's financial picture has stabilized and the utility is again paying back principal on its federal loans.

Most importantly, since its Depression-era creation in 1937, the BPA has become as essential to the Northwest economy as timber on the Cascade slopes. The BPA has 3.7 million customers, 14,000 miles of transmission lines and operating revenues of $2.6 billion; it is crucial to Northwest businesses employing 400,000 people.

Selling the BPA surely would mean higher power rates. One study predicted that rates would jump a third if the BPA were sold at the government's $8.85 billion price. If the BPA were sold for $22 billion, rates might skyrocket 218 percent. That could mean a loss of 100,000 Northwest jobs and cost the government more in lost taxes than it earned from the sale.

Even speculation about selling the BPA jeopardizes the economic health of a four-

state region. It's unthinkable to place the Pacific Northwest's future in the hands of a few profit-minded out-of-staters.

The BPA has worked well these 49 years, ain't broke, and needs no fixing. In Mr. Johnson's words: "Whatever we do, don't destroy what we have in search of something that is just a vision."

AN INTERNAL MEMORANDUM OF SEATTLE CITY LIGHT

In recent months, a number of proposals have surfaced in the Northwest and in Washington, D.C. relating to the possible sale of the Bonneville Power Administration (BPA or Bonneville) by the federal government.

Threshold questions which arise in this connection are as follows:

A. *What is to be sold?*

BPA itself owns and operates only the regional electric transmission system. By law, it markets the power from generating facilities at dams owned and operated by the Bureau of Reclamation and from the Army Corps of Engineers. By separate Acts of Congress it has also acquired through exchange and net billing arrangements, the project output of the Hanford Generating Project owned by the Washington Public Power Supply System together with the output of Supply System Plants 1, 2, and 3. (WNP 1/2/3). As a result of the default by the Supply System on revenue bonds issued to finance the construction of Supply System's plant 4 and 5, Bonneville is also still involved, despite a recent district court ruling favorable to it, in securities litigation relating to those plants. Thus, any such proposal must address in detail all the various facets of Bonneville's activity and make clear what it is that is being sold.

As a practical matter, it would seem likely that the obligation of BPA with respect to all the WPPSS plants would have to be assigned along with the transmission facilities of Bonneville itself. It might be possible, however, to separately dispose of the actual generating plants owned by the Corps and by the Bureau.

B. *Who will be the Buyer?*

It has been suggested on one hand that the sale should be to the highest bidder. In such case California entities, private power companies and/or Canadian interests would certainly be potential purchasers. On the other hand it has been suggested that the sale should be made to a consortium of public agencies or an interstate compact in the Northwest. The outcome of this basic question promises to be a heated policy struggle that would dramatically affect the nature and type of sale arrangements.

C. *What will be the price?*

Suggested Sale prices have ranged from a debt-based $3-5 billion to a value-based $25 billion. The answer to these questions lie primarily not with economic analyses, but with policy determinations.

This memorandum of course does not answer these ultimate questions of sales price, subject matter, or possible purchasers. Its purpose is to identify certain general factors which must be taken into account in any proposed arrangement.

1. Existing BPA Contracts:

Virtually all BPA contracts—about 10,000 in all—preclude assignment or amendment of the rights and obligations of Bonneville except to another government agency without the consent of the other parties. These agreements, in turn, refer to and are predicated upon the statutory and administrative structure of federal regulatory processes by which BPA rates and policies are established. This being the case, any disposition of Bonneville assets would have to satisfy all existing parties to Bonneville contracts. A unilateral assignment of Bonneville contracts detrimental to any nonfederal party would surely be the subject of serious challenge.

One example of the degree to which Bonneville's actions are tied to the federal regulatory process serves to illustrate the difficulty of disentangling these ties. FERC has recently held that, while under the Northwest Power Planning and Conservation Act it lacks authority to review and determine the reasonableness of rate design, it nevertheless has a statutory and contractual obligation to review cost based rate levels, predicated upon federal treasury repayment levels. Thus, any purchaser of Bonneville's rights and obligations could be limited to those rates now charged by Bonneville, absent clear Congressional action to the contrary, which itself would be subject to court challenge. The outcome of a dispute over rate flexibility by a purchaser is unpredictable, and contributes to the continuing uncertainty regarding what really would happen if Bonneville were sold.

2. The Pacific Northwest Preference Act (PL 88-552):

The Pacific Northwest Preference Act mandates that Bonneville must give first priority in the sale of electricity to Northwest entities. Any sale arrangements would have to take into account existing contract elements which have implemented terms and provisions of this regional preference. However, what Congress can do in one session it can undo in another. Any sale to the highest bidder could eliminate any future regional sale restrictions, especially if bids from California entities are invited. Thus, Pacific Northwest preference would be placed at high risk during any sale process. Any change in regional preference would likely result in a substantial transfer of economic benefits presently enjoyed by the Northwest to California entities.

3. Antitrust Provisions:

At present Bonneville, as an agency of the United States Government, enjoys immunity from the provisions of the Sherman and Clayton Antitrust Acts. Any sale of Bonneville assets, either to private parties or a regional consortium, could hardly be expected to carry with it such general or even limited immunity. It is, therefore, to be expected that future operations of any purchaser would be considerably more constrained by antitrust considerations than is Bonneville.

4. Intertie Access Policy:

Bonneville's intertie access policy which regulates access to the intertie in a manner favorable to the Northwest (and which has been recently upheld by the Ninth Circuit against a California challenge) would certainly be jeopardized. The Ninth Circuit decision focused primarily on the board, regulatory powers of Bonneville as a federal agency. Removing Bonneville's status as a federal agency removes the underpinning for the preservation of the intertie access policy. There is little question that in any sale, questions relating to intertie access from the Canadian Border to California would be the subject of both scrutiny and substantial pressures for change. As in the case of regional preference, any change in the intertie access policy would probably produce a transfer of economic benefits from the Northwest to California.

5. Washington Power Supply System Contract:

All contracts to which Bonneville is a party can not be unilaterally abrogated. Thus, the provisions of all exchange and net billing arrangements would have to be taken into account, as well as continuing contingent liabilities resulting from Projects 4 and 5. If BPA's obligations under the WNP 1, 2, and 3 net billing agreements are transferred, the bondholders and bond trustee could regard this as an impairment of underlying security, giving rise to an asserted event of default, which in turn could trigger the entire principal and accrued interest on the WNP 1, 2, and 3 bonds to become due and payable immediately.

6. Bonneville's Supply System Liabilities:

Any sale of BPA would still mean that BPA would remain liable for contingent Supply System liabilities for actions which had taken place prior to the sale. To meet this problem, the government could either eliminate such liability by settling the litigation, or indemnify the buyer from and against any such liability. The absence of federal indemnification could seriously inhibit a sale, however, since the potential buyer would have no way of knowing the extent of its exposure.

7. Pacific Northwest Power Planning and Conservation Act:

An elaborate administrative process has now been set in place dealing with regional power planning, conservation, and fish and wildlife matters. In the event of sale of the federal power system, there is little reason to believe that these matters would not again be the subject of renewed public inquiry and probable change. Thus, all existing arrangements relating to power planning, conservation, and fish and wildlife protection which are only now achieving some stability would again be thrown into flux.

8. Pacific Northwest Coordination Agreement of 1964:

The Coordination Agreement provides basic ground rules under which the coordinated hydroelectric and steam generating plants of the Pacific Northwest are operated. Bonneville is a party to this contract. Without question any sale arrangement would have to take this "charter-type" contract into consideration. No amendment of the Coordination Agreement is possible without the consent of all parties and any unilateral violation of its terms by Bonneville, would amount to an impairment of a contractual obligation and possible lawsuits in the Courts of Claims and lawsuits under the due process clause of the Fifth Amendment. In addition, the United States Constitution specifically prohibits states from acting to impair the obligation of contracts. Consequently, any interstate compact arrangement or any other type of sale based an individual state legislation could be challenged under the U.S. Constitution.

9. Public Agency Preference-And Beyond:

Finally, and perhaps most importantly, a basic and fundamental provision of the existing Bonneville Project Act and the Northwest Power Planning and Conservation Act is and has been the preference in power sales accorded to public agencies. We have recently seen, in the development of sweeping amendments to federal hydroelectric relicensing legislation, that Congressional support for public preference has weakened substantially. It is therefore reasonable to project that any legislation relating to the sale of Bonneville could result in the elimination or reduction of preference, all to the disadvantage of Seattle and every other public power system in the Northwest. The

results of such weakening of preference would become even more impalpable after expiration of the existing power sales contracts since contractual protection would then disappear.

TO PROHIBIT SALE OF PMA'S/TVA/BPA

Mr. GORE. Mr. President, today I join my distinguished colleague from Washington, Senator EVANS, in introducing legislation to prohibit the selloff of the Federal power marketing administrations and the Tennessee Valley Authority.

The administration has been floating this idea for 5 years, so the current proposal to dump the power marketing agencies—part of the President's budget—is no surprise. But Mr. President, this is an idea whose time has still not yet come, and in my view, will never come. And I am confident that, for the foreseeable future, it is an idea that the Congress will forcefully reject. That is the intention of the bill we introduce today, and we urge our colleagues to join us in sending the administration that message loudly and clearly.

Let me take a moment to note some of the implications of such a fire sale of United States' assets.

Although the administration now says it does not intend to auction off the Tennessee Valley Authority, there is no secret that officials at OMB have been studying this idea. Without question, such a plan would devastate the entire Tennessee Valley region, wreak economic chaos, eliminate vital fertilizer research, demonstration, conservation, and environmental quality programs. A half century of success in one of this country's most important public programs would be tossed on the heap like surplus GSA office furniture.

Instead of producing an alleged windfall for the Treasury, the process of disposing of one of our most valuable public assets would carry enormous costs in itself, produce nominal Treasury revenues at best, yet drive up electricity rates for millions of Americans, all to satisfy the current obsession with the concept of "privatization."

If the news of the administration's early plan to sell off TVA was a trial balloon, then let us put the pin to it without delay. It deserves to burst before leaving the ground.

The proposal to sell off the power marketing administrations, on the other hand, is no trial balloon. The administration is deadly serious about this proposal and committed to what I believe is an equally flawed proposition.

The Department of Energy operates five PMA's which sell electric power produced from hydropower resources on public waterways. The five PMA's are Bonneville in the Northwest, and Western, Southeastern—which has corps dams on the Tennessee River—Southwestern, and Alaska. These facilities include dams built by the Corps of Engineers and the Bureau of Reclamation.

The PMA's wholesale this hydropower under contracts to utilities at cost of production and transmission. PMA's repay the Federal Treasury for the public investment in these facilities. It costs the taxpayers not one penny.

The President's fiscal year 1987 budget proposes to sell all PMA-operated transmission facilities. The selloff would occur by auction or direct negotiation with "regional and private interests." The administration claims a total deficit reduction of $12.7 billion over the next 5 years. Mr. President, I believe that savings is pure illusion. In fact, I believe it is not deficit reduction that the administration seeks in this fire sale but simple ideological purity in the pursuit of privatization for its own sake.

Let me take a moment to describe how the PMA fire sale would affect Tennessee.

TVA and other public and private utilities throughout the Southeast have long-term contracts to purchase hydropower from the Southeastern Power Administration [SEPA]. TVA then resells this hydropower to local distributors for their residential customers under provisions of the TVA Act restricting low-cost hydropower to residential users.

In 1984, TVA purchased from SEPA, and resold to valley distributors, approximately 3.2 billion kilowatt hours of electricity from SEPA dams, or 4.5 percent of all of TVA's sales. TVA paid SEPA approximately $14 million for that power.

If SEPA assets were sold to the highest bidder, its new charges for power would be, at minimum, the estimated market cost of replacement power. Even if the high bidder would agree to continue selling that power to TVA ratepayers, TVA would then be forced to pay approximately $125 million for power now costing $14 million.

A $110 million increase in TVA electricity costs would force an overnight rate increase for TVA ratepayers of about 7 percent. Those increases would be mirrored throughout the country as utilities face greatly increased costs for PMA-marketed hydropower. In addition to skyrocketing ratepayer increases, the administration's plan is flawed in other ways:

First, the purported Treasury windfall from a selloff of the PMA's is highly speculative. Not a single administration study has been presented to credibly support the revenue levels anticipated from such a sale. Whatever did come would be from the pockets of electricity ratepayers. There has never been a similar selloff from which to analyze transaction costs, market participation, and so forth. For example, the DOT's plan to sell Conrail, at $1.2 billion, is the largest such effort ever undertaken by the U.S. Government.

Second, even if these assets could be sold, the price would be so high as to force either a breakup of the systems involved, or such a degree of financial leverage as to endanger the very solvency of the power distribution systems.

For example, if unguaranteed bonds were issued to finance a purchase of Corps of Engineers or Bureau of Reclamation dams, billions of dollars of new capital would be needed, at interest rates sufficiently high to attract investors. Those costs would necessarily be passed on to utilities, who then might be forced to build new capacity from nuclear or coal-fired facilities. In any event, utility planning would be disrupted, directly affecting their customers.

Third, the administration has not taken into account the legal commitments that currently exist between the PMA's and the utilities. TVA's contract, for example, is in place through 1994.

Fourth, these corps and land reclamation dams were built to provide public benefits and produce economic growth for the regions they serve—not to create a corporate windfall opportunity for investors taking advantage of a Government fire sale.

Fifth, the public investment in PMA facilities is being paid back. Mr. President, it is being paid back with interest. There is no taxpayer subsidy involved. Yet, if private investors purchase these assets, it is certain that huge tax deductions or credits would subsidize the sale—in other words, the selloff itself would be subsidized by the taxpayer. That, in fact, has been one of the major criticisms of the Conrail sale, although there are many differences between the two cases.

Mr. President, the list of reasons to oppose the selloff of TVA and PMA goes on and on. In fact, there are simply no credible reasons to support the administration plan. The bill Senator EVANS and I and others will introduce today would foreclose the administration from advancing such a wrongheaded proposal disguised as a deficit reduction move. I urge my colleagues to support this legislation

PROHIBITING THE SALE OF POWER MARKETING ADMINISTRATIONS FOR A 10-YEAR PERIOD

Mr. BAUCUS. Mr. President, I am pleased to join my distinguished colleague from Washington [Mr. EVANS] and others in sponsoring legislation to prohibit the transfer or sale of Federal Power Marketing Administrations

[PMA's] or the Tennessee Valley Authority.

The Reagan administration has advocated the sale of a number of government assets including the five power marketing administrations. The administration has proposed the sale in order to get the Government out of activities that it believes the private sector could perform more efficiently. In addition, the administration argues that the sale of the PMA's will reduce the Federal budget deficit and contribute to fiscal restraint.

Selling the PMA's in the name of budget savings and deficit reduction is short-sighted at best. It is false and dishonest at worst.

Sale of the PMA's would be fiscally irresponsible, and would lead to a breakdown of the delicate but effective balance between public and private utilities.

A quick sale of the PMA's would do nothing to solve the underlying fiscal problems that have led to steadily growing budget deficits. Government asset sales generally result in only temporary reduction in the Federal budget deficit. In fact, such sales would probably make the situation worse in years to come.

Unfortunately, in its efforts to cut the deficit the Reagan administration has identified a target that pays more money into the Treasury than it takes out. For example, last year the Bonneville Power Administration made a payment of $600 million to the Treasury—$374 million for imputed interest on unamortized investment, and $226 million to repay a portion of that investment. This payment meets the repayment obligations to the Treasury under current law.

I question the validity of the Reagan administration's claim that privatizing government assets leads to an improvement in the quality of service at a lower cost in the case of PMA's.

If the Government sells an asset to the private sector, the sale should be arranged in a way that ensures the support of the employees, management, and customers alike. The goal should not be to squeeze every dime possible out of the sale. Unfortunately, the Reagan administration's proposal to privatize Federal Power Marketing Administrations is driven by ideology rather than by sound business judgment.

The effect of privatization would certainly be higher electric rates for millions of consumers. Refinancing costs would have to be passed on to consumers. This would be catastrophic for regions that receive a substantial portion of their electricity from a Federal power program.

In the Northwest, a significant increase in electric rates would send more of the struggling aluminum industry overseas, where foreign governments who believe in fostering industry would provide reasonably priced hydropower.

This would lead to an enormous power surplus. Homeowners and businesses would be forced to pick up the Bonneville Power Administration's operating costs abandoned by the aluminum industry.

In recent years, all five PMA's have raised their rates substantially. Each year they pay back to the Treasury more than they spend.

All five PMA's have entered into power supply agreements that are vitally important to the regions they serve. These agreements would be seriously disrupted by a sale.

The PMA's perform proprietary functions as well as government functions. A sale would force the transfer of governmental functions such as conservation, fisheries development, and environmental protection to another Federal agency. Today, revenues from the proprietary operations pay the costs of the governmental function. A sale would force taxpayers to pay for the governmental operations.

Privatizing the five Federal Power Marketing Administrations would penalize millions of consumers by unnecessarily driving up rates.

The American people should continue to benefit from the services provided by the five PMA's. Selling them would be a great disservice to all utility customers.

I urge my colleagues to support this crucial legislation.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for morning business.

OPPOSITION TO CERTAIN IMPORT RESTRICTIONS IMPOSED BY EUROPEAN COMMUNITY ADVERSELY AFFECTING U.S. AGRICULTURAL EXPORTS

Mr. DOLE. Mr. President, I send a concurrent resolution to the desk on behalf of Senator HELMS, Senator ZORINSKY, and others, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 129) expressing the sense of Congress in opposition to certain import restrictions imposed by the European Community that adversely affect United States agricultural exports and urging the President to use to the fullest extent his authority to respond to these practices.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

Mr. BYRD. No objection.

There being no objection, the Senate proceeded to consider the concurrent resolution.

EUROPEAN COMMUNITY CONCURRENT RESOLUTION

Mr. HELMS. Mr. President, today I am joined by the majority leader, the distinguished ranking minority member of the Committee on Agriculture, Senator ZORINSKY, Senator WILSON, Senator BOREN, Senator BOSCHWITZ, and Senator DANFORTH, among others, in bringing to the Senate floor a concurrent resolution expressing the sense of Congress in opposition to the European Community's latest round of restrictions on U.S. agricultural exports and urging the President to use to the fullest extent his authority to respond to these practices.

When the European Community was expanded to include Spain and Portugal in January of this year, additional restrictions were placed on American agricultural exports that could affect as much as $1 billion in U.S. farm exports annually.

As the language of the resolution points out, the oilseed, oilseed product, and grain purchase quotas imposed by the EC, effective March 1, 1986, are in violation of the GATT. Moreover, the replacement of GATT-bound 20 percent tariffs on corn and grain sorghum imports entering Spain with the EC's variable levy system, which is currently equivalent to a tariff of more than 100 percent, is in violation of previous agreements and international trade rules.

On March 31, President Reagan announced his intention to use existing authority to retaliate against these illegal, trade-restrictive practices of the EC by imposing quotas and tariffs on an equivalent value of EC products entering the United States, including white wine, mineral water, fruit juices, vegetables, and cheese.

I fully endorse the action of the administration to get tough with the Europeans. It exemplifies the President's pronounced "free but fair" trade policy.

Mr. President, I have long urged a more aggressive policy in dealing with the predatory trading practices of our friends across the Atlantic, the European Community. The EC's Common Agricultural Policy has had an extremely detrimental effect on our agricultural exports—to the extent that many international agricultural experts suggest that much of the blame for our current surpluses can be laid at the feet of artificially induced overproduction in the EC.

I sponsored the inclusion of funds in the 1981 farm bill to provide targeted export assistance, expressedly to combat the unfair, predatory trading practices of the European Community. Funding for similar activities was included as part of the 1985 farm bill. In my opinion, this is money well-spent, to reopen international markets where

the EC has unfairly closed the door on our exports.

Some senators have noted concern that supporting this resolution would place one on record as opposed to the EC's accession of Spain and Portugal. This is not the case. This resolution is intended to clarify the position of the Congress in this matter and to strengthen the hand of the administration in negotiating a favorable resolution—including Secretary Lyng and Ambassador Yeutter, who will depart for negotiations in Europe tomorrow.

I urge the Senate's support of the resolution.

CONCURRENT RESOLUTION ON EEC TRADE PRACTICES

Mr. WILSON. Mr. President, I am pleased to cosponsor this resolution whose enactment is critical to all sectors of American agriculture, both now and in the future.

This resolution urges the President to use his full authority to retaliate against the new restrictions on grains and oilseeds in Spain and Portugal which adversely affect U.S. exports, unless the United States receives prompt and complete compensation for any loss of trade resulting from the enlargement of the European Community.

In addition, it expresses congressional opposition to the unjustified threat of the European Community to counterretaliate against additional American agricultural products. I applaud the President's courageous and proper decision to stand up for the rights of the American farmer. As noted in the resolution, the EC on March 1 put into place the first transition measures to bring Spanish and Portuguese agricultural policies in line with the Common Agricultural Policy. Some of you may recall the remarks I made on this subject 2 months ago before these new import restrictions went into effect. Many of us subsequently sent a letter to the President last month to urge him to pursue to the fullest extent the American right to compensation under the rules of international trade by preparing and using a comprehensive list of items for retaliation against the European Community.

I am encouraged that the Administration, by announcing possible retaliatory measures, has elected to demonstrate that we will no longer stand idly by and let the American farmer pay the price when the EC decides to add new members. When Secretary Lyng and United States Trade Representative Yeutter go to Brussels this week for 11 hour negotiations, I certainly hope that they will stand firm in their defense of American agriculture. I believe that the passage of this supportive resolution will assist them in their meetings.

No doubt some of my colleagues who are familiar with this issue may wonder why PETE WILSON, a Senator from California, is actively involved in the fight on a grain and soybean issue. There are a number of reasons why. We must support the resolution being offered today because the new EC restrictions immediately threaten $1 billion in American exports—not just grain and soybeans. Ultimately, because the enlargement of the community will affect all sectors of American agriculture, we must support this resolution as a matter of principle: for far too long the EC has abused international agricultural trade rules and American goodwill and gotten away with it.

California knows too well the wrath of EC unfair trade practices aimed at its citrus, canned fruit, and raisin exporters. California walnut and lemon producers were the most recent victims of unjustified EC trade retaliation during last year's pasta war.

Not surprisingly, the EC has again targeted many of California's lucrative products for counterretaliation. This time, wine, prunes, fruit juices, and California's $185 million worth of almond exports to Europe are on the EC's hit list. Although California producers ask nothing more than a fair market in which to compete, once again, they might be the victims of unfair agricultural trade practices by other governments.

In spite of today's resolution, the greatest danger posed to California by the accession of Spain and Portugal is not the quotas on soybeans and the variable levies on grain. California's danger is long-term. Thanks to the subsidies of the Common Agricultural Policy, Spain and Portugal will become the "Californias of Europe," producing and exporting abundant supplies of fruits, nuts and vegetables. But unlike California, Spain and Portugal do not seek a fair market in which to compete. They seek what other EC agricultural producers already receive: open-ended subsidies to grow, process, market and export their fruits, nuts, and vegetables. And as those subsidies flow, Spain and Portugal threaten to strip California exporters of their hard-earned markets in Europe and abroad.

That explains why I feel so strongly about this confrontation which, for now, harms our grain and soybean producers. But unless the EC knows that we do not intend to let our farmers pay the price for the enlargement of the community, our agricultural producers of numerous other commodities may lose many export markets forever.

For these reasons, I urge my colleagues in the Senate to cosponsor this resolution and to vote overwhelmingly for its prompt adoption.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 129) was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 129

A concurrent resolution expressing the sense of Congress in opposition to certain import restrictions imposed by the European Community that adversely affect United States agricultural exports and urging the President to use to the fullest extent his authority to respond to these practices.

Whereas, as part of the terms under which Spain and Portugal joined the European Community in January of this year, the European Community has imposed quotas on oilseeds and oilseed products in Portugal, in violation of the General Agreement on Tariffs and Trade (GATT);

Whereas the European Community has imposed a quota requiring that Portugal purchase at least 15.5 percent of its grain from other European Community countries, in violation of the GATT;

Whereas the European Community has replaced GATT-bound 20 percent tariffs on corn and grain sorghum imports entering Spain with the European Community's variable levy system, which is currently equivalent to a tariff of more than 100 percent, before negotiating compensation as agreed to previously and directed by international trade rules;

Whereas the restrictions imposed by the European Community will impair access for a much as $1 billion worth of United States agricultural products to markets in Portugal and Spain and adversely affect the economic livelihood of United States farmers and related industries;

Whereas, despite Cabinet-level approaches to the European Community in recent months, the European Community has been unwilling to rescind the illegal quotas or to compensate the United States for the damage caused by the higher tariffs;

Whereas prior enlargements of the European Community in 1973 and 1981 have adversely affected United States agricultural exports to the Community;

Whereas the President on March 31 announced his intention to use existing authority to respond to the restrictions of the European Community by imposing quotas and tariff increases or by withdrawing tariff bindings to produce equivalent restrictive effects or comparable loss trade on European Community imports into the United States; and

Whereas the President's proposed actions to defend legitimate United States trade interests are consistent with his belief in a free but fair trade policy: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the Administration should continue to firmly oppose actions by the European Community to (A) impose quotas on oilseeds and oilseed products in Portugal, (B) impose a grain purchase requirement quota on Portugal, and (C) place variable levies on corn and grain sorghum entering Spain before negotiating compensation; and

(2) unless the European Community rescinds the trade-restrictive measures referred to in clause (1) or the United States receives prompt and complete compensation for any loss of trade resulting from the en-

largement of the European Community, the Administration should take actions, such as the President has announced, to impose trade restrictions on a sufficient value of exports of the European Community to the United States to reestablish the balance of concessions under the GATT and other international trade agreements.

SEC. 2. The Secretary of the Senate shall transmit copies of this resolution to the President, the Secretary of State, the Secretary of agriculture, the Secretary of Commerce, the Secretary of the Treasury, the United States Trade Representative, the Head of the Delegation of the European Community to the United States, and the Ambassdors to the United States for each of the member states of the European Community.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the concurrent resolution was passed.

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

The motion to lay on the table was agreed to.

ELECTRIC CONSUMER PROTECTION ACT

Mr. JOHNSTON. Mr. President, I am delighted that the Senate is about to pass S. 426. It has taken us a long time to get to this point—at times I wondered whether we ever would—and although the House of Representatives still must act on the bill reported by the House Committee on Energy and Commerce, and we will undoubtedly have a number of challenging issues to resolve in conference committee, Senate approval of the bill is a great big first step toward enactment this year.

Mr. President, I commend Senator MCCLURE, the distinguished chairman of the Energy and Natural Resources Committee, for his leadership, dedication, and unflagging patience, which have been essential to the success of this measure.

It has passed virtually unscathed in the form that it left the committee and, as I have stated here on the floor many times, I think it is a very excellent solution to a very difficult problem.

It is largely a Western problem, but it is a Western problem involving billions of dollars and hundreds of thousands of electric consumers. I think we resolved that in a way consistent with the national interest or, to be more precise, the public interest and those very words "public interest" are used as the principal measure of determining who gets the power from a hydroelectric dam when the license expires.

I think the key, the centerpiece of this legislation, is a very carefully drawn, fair, workable matrix of rules that settle who gets the power or gives a test by which you can measure who should get the power on the expiration of one of these hydroelectric licenses.

I also thank and commend the committee staff members who have worked so long and hard on this bill—Gary Ellsworth, Russ Brown, Jim Beirne of the majority staff, and Mike Harvey and Bill Conway of the minority staff. I point out that Bill Conway joined the minority staff almost exactly 1 year ago. Since that time, he has been "in charge" of S. 426.

I particularly commend Bill for an excellent job for his first time out on a major piece of legislation. I think it is remarkable the excellent job that he has done.

Mr. BAUCUS. Mr. President, I rise to support this legislation. I plan to vote for this bill because I believe this bill, with the addition of the wheeling amendment that has been agreed to, takes an important step to assure a fair balance between public and private power interests.

I continue to have reservations that the bill is an unwarranted departure from a public policy hammered out in the early 1900's after years of debate.

Then, President Theodore Roosevelt vetoed the companies' attempts to secure the benefits of our country's rivers solely for their own profit.

In 1920 the Congress agreed with this principle, passing the Federal Power Act.

That law, embraced by a bipartisan coalition of Democrats and Republicans, struck a balance between private and public interests.

It established a tie-breaker policy which favored public institutions in the utilization of our waterways. It set the stage for competition in the electric utility industry.

This tie-breaker, which some call hydrolicensing preference, stated that the Federal Government would favor licensing public institutions over private companies if their applications were otherwise equal.

At the time the Federal Power Act was passed, the investor-owned utilities agreed that upon relicensing, States and public institutions would have the opportunity to take over stewardship of these resources so long as their project applications were at least as good as the plans of the investor-owned utility.

Now we are about to undo a 65-year-old policy developed after years of debate.

The policy has not even been tested. To date the Federal Energy Regulatory Commission has relicensed something over 130 hydroelectric projects. Only 11 have been contested by public institutions; and those cases are still pending before FERC.

We do not even know if the preference tie-breaker will be used by FERC in deciding these cases.

The preference tie-breaker was established to ensure adequate competition in the electric utility industry. Then, the electric utility industry was in its infancy.

Large parts of the country had yet to enjoy the benefits of electricity.

Municipal electric systems and other public agencies had only begun to organize to provide electric power for their citizenry.

Rural electric cooperatives were not even in existence. It would be another 15 years before Congress created them.

The electric utility industry, by its nature, has an inherently monopolistic character. In passing the Federal Power Act, the Congress and the President wanted to ensure that there would be a hospitable climate for growth.

Our country has always prided itself on its diversity. Diversity is one of our greatest strengths.

It is a concept strongly embraced by the public. A recent poll showed that 59 percent of the public favored a mix of ownership of electric utilities—some public, some private.

The dynamic relationship between the two groups fostered competition. That competition, in turn, meant that consumers would be getting the best possible deal. No company could use its position in the marketplace to gouge consumers.

Now, at a time when we are in a position to see that competition works to benefit all consumers, we are about to dismantle it. Why?

Private owner companies will tell you that this preference tie-breaker in relicensing proceedings will mean a wholesale transfer of hydroelectric licenses from private utilities to municipalities.

The history of relicensing applications shows that simply isn't true.

This fact was recognized in an interview with the Wall Street Transcript. The chief executive officer of the company holding the largest number of private hydroelectric licenses stated as much. He stated that his company expected to prevail in their relicensing hearings.

Why? Because they would propose superior utilization of their hydroelectric sites. I applaud his commitment to providing the best possible use of our rivers' capabilities.

The preference tie-breaker has fostered competition which has benefited all consumers. It is a public policy we need to maintain, not destroy, if we wish to see a healthy electric utility industry.

Then, as now, we need to do everything we can to foster a competitive atmosphere in that sector of our economy.

If anything, the need for this competition is greater now than it was then. Over the last 65 years, there has been a dramatic decrease in the number of private companies serving the public.

There has been a decrease because there is increasing concentration of power among fewer and fewer companies.

Only a few companies control more and more of our country's generating capacity and transmission lines.

This concentration makes it harder for municipalities, public agencies, and rural electric cooperatives to find a competitive power supply and transmission market.

Now, we are about to turn over our Nation's private hydroelectric resources to one sector of the industry and virtually preclude municipalities and public agencies from competing for these resources.

The licensing provisions of the Federal Power Act are working. Both the public interest and the holders of FERC licenses are protected.

No one objected to the 30-year extension of more than 130 licenses.

Only 11 have been challenged and none have changed hands.

While I plan to vote for this legislation, I continue to be concerned about whether or not a fair balance overall is being maintained.

Mr. MITCHELL. Mr. President, I rise to support passage of S. 426, the Electric Consumers Protection Act of 1985.

At issue in S. 426 is the long-standing Federal policy of public preference. Under preference, when a public and private utility compete for a hydroelectric license, the license goes to the public utility if the applications are otherwise equal. The reason for the public policy is simple: Public resources should be reserved for the public good.

Public preference in licensing of new hydroelectric projects would not be changed under S. 426. When the Federal Power Act was passed in 1920, public preference applied to applications to build dams.

In 1980, FERC, in the Bountiful case, ruled that preference also should be taken into consideration upon the expiration of original licenses. In 1983, however, a new FERC overruled Bountiful and held that preference did not apply to relicensing in the Merwin case. Last October, the D.C. Court of Appeals overturned FERC's decision. The three-judge panel's Merwin decision has been vacated by the full court of appeals.

The bill, as reported by the Energy Committee, gives existing hydroelectric licensees a tie-breaking preference in Federal Energy Regulatory Commission [FERC] hydro relicensing decisions. Under the bill, FERC would be required to renew the expiring licenses unless the Commission determined that a competing application, including one from a public utility, would better serve the public interest.

I want to make it clear that I do not believe that passage of this legislation will prevent a large changeover of private hydro licenses to public utilities in Maine or nationally.

Preference applies only when two competing applications are otherwise equal. In other words, when a case cannot be made that one applicant will do a better job, or more deserves to retain the license than another.

That happens very rarely. As of last month, FERC had issued 96 relicenses, with 10 contested cases and 49 uncontested cases still pending.

Even without this legislation, it appears likely that private utilities will retain 145 of 155 hydro license renewals without a challenge from a private. It is the infrequent hydro license that will be affected by this legislation.

Nonetheless, it is the infrequent license transfer, with its associated costs to the overwhelming majority of electric consumers that concerns me.

Maine's three private utilities, which serve 95 percent of the State's electric consumers, have 32 licensed facilities due to come up for relicensing before 1994. Hydroelectric generation accounts for 20 percent of the State's need, which is about twice the national averge.

It's important to note that no one doubts that economic dislocation will occur from a license transfer; the argument is only over the size of the economic dislocation which will occur. A large percentage of electric consumers will pay; a small minority will benefit.

I do not think that good public policy benefits a small minority at the expense of a large majority in relicensing decisions when no clear benefit can be seen from a license transfer.

The standard that should be used to judge the issuing of hydro licenses is the determination of who will utilize the public resource in a manner that provides the greatest good to the public.

If a change in ownership of a licensed facility would increase the public benefit to be had from a site, that should be apparent before the preference consideration comes into play. If a clear determination cannot be made, it makes economic sense to leave the license in the hands of the original licensee.

The debate in the Senate on this legislation has centered, as it should, on the issue of public preference in relicensing cases. I think it's important to point out the significant improvements made by the committee in its deliberations.

Those include: the new environmental requirement for FERC to consider in all new license and relicensing applications and the requirements for FERC to examine how proposed hydroprojects would mesh with comprehensive river-basin plans drawn up by State and regional authorities. I have twice introduced legislation addressing FERC's present inadequate efforts in licensing projects according to comprehensive plans so that I believe this is a particularly good addition to the bill.

I am concerned, however, that amendments added to the legislation during floor debate last week have seriously undermined the bill's environmental requirements. I am hopeful that stronger language that clearly protects these valuable resources will be added in conference with the House.

I believe the leadership of the Energy Committee, Senator McCLURE and Senator JOHNSTON, share that concern with me and other Senators. I look forward to seeing those improvements made in an otherwise very good piece of legislation.

Mr. DOLE. Mr. President, first of all I would like to thank the members of the Committee on Energy and Natural Resources for their hard work on S. 426, the Electric Consumers Protection Act of 1985. The distinguished chairman of the committee, Senator McCLURE, and the ranking minority member, Senator JOHNSTON, are to be commended for their efforts in bringing this piece of legislation to the floor.

CLARIFYING THE AMBIGUITIES

The passage of this legislation helps put an end to the uncertainty that has existed as to the interpretation of the Federal Power Act of 1920. The ambiguity as to whether or not States and municipalities have a preference in the relicensing of hydroelectric facilities has created uncertainty, both in the minds of Board members of the Federal Energy Regulatory Commission and members of the judiciary. This bill will allow those who presently receive the benefits of low-cost hydropower to continue to receive those benefits unless a competing application is proven to be better. It will also give some consideration to the economic disruption that would occur should a license suddenly be transferred to a new entity.

INVESTOR-OWNED UTILITIES SERVE THE PUBLIC

I know there are some who claim that we are giving away public resources to the investor-owned utilities. However, Mr. President, let's not lose sight of the fact that the customers of these investor-owned utilities deserve the right to benefit from low electric rates just as much as those served by municipally owned utilities. These investor-owned utilities competed against the States and municipalities to attain their initial licenses. Yanking the licenses now, because of a legislatively mandated preference for the States and municipalities, would certainly result in higher rates being paid by those currently being served by the investor-owned utilities.

CONCLUSION

Mr. President, this is not an issue of municipalities versus those who receive their service from investor-owned facilities. This legislation simply gives investor-owned utilities the chance to compete in an open market without establishing any preference for either party. It gives those customers being served by investor-owned utilities a fair chance to keep their current utility rates.

Mr. President, I urge my colleagues to adopt S. 426 in an effort to clarify Federal policies governing the licensing of hydroelectric facilities.

Mr. EVANS. Mr. President, I would like to make a few closing remarks upon the passage of S. 426, as amended, by the Senate. In my opening remarks, I stated my belief that this bill should address the broader questions of the optimal use of a valuable public resource—water. I think that we have made some progress toward addressing such broader concerns, in both the amendments adopted in the Energy and Natural Resources Committee and on the floor. But we still have quite a way to go.

On the whole, I think this bill is the best package that we can get out of the Energy Committee and the Senate at this time. But the House has taken quite a different approach in its bill, H.R. 44, that was reported out of the Energy and Commerce Committee toward many key elements in hydro relicensing. We head into a difficult but important conference committee. I'm not going to predict how long such a conference will take and what the likely outcome will be. But I think it's fair to state that it will be a lively and contentious conference. I am supporting this bill based on the recognition of such a conference and the likelihood that key elements of the bill will probably be modified at that time. Thus I have refrained from offering several amendments that I had prepared for consideration on the floor.

Let me summarize what positive things I believe that S. 426 has accomplished:

Clarification of the contentious issue of municipal preference in relicensing proceedings in section 15 of the Federal Power Act, which is an issue that we, as responsible Members of Congress, have to address squarely and resolve;

Reduction of the statutory license term, in principle, from 50 to 30 years, allowing each generation the chance to review the project's use of water as a valuable public resource;

Explicit reference of adequate protection, mitigation, and enhancement of fish and wildlife in the section 10(a) public interest standard;

Obligation of FERC to consider seriously:

Consistency of the project with State or regional comprehensive plans, such as the Northwest Power Council's 20-Year Power Plan and the Columbia River Fish and Wildlife Program; recommendations of the relevant Federal and State agencies regarding the project, as well as those of the affected Indian tribes; the plans of a utility applicant for energy conservation programs.

On the other hand, I believe the bill has shortcomings in the following areas. These are subjects that I would hope the conference committee would seriously address and make improvements:

First, PURPA benefits: In general, I would have preferred stronger language that would have denied the generous PURPA 210 benefits to all new small hydro projects. I introduced an amendment to that effect on the floor, No. 1777, but withdrew it after consulting with Chairman McCLURE. I am concerned with both the environmental harm caused by the explosion of applications for licenses and preliminary permits in the Pacific Northwest, as well as the economic aspects of requiring utilities to purchase power from qualified small power producers under all circumstances.

More specifically, I am quite concerned that the PURPA grandfather clause that we adopted—amendment No. 1775—is too broad. This could exempt as many as 500 projects from the provisions of this legislation. I am sympathetic to the notion that the rules shouldn't be changed in midstream to investors who relied on them in developing certain projects. But, as I stated for the RECORD on April 11, I believe that providing an exception for preliminary permits allows many applicants who have spent next to nothing to escape the purview of the provisions in S. 426. Furthermore, it is important to keep in mind that S. 426 doesn't deny the PURPA 210 benefits to small hydro projects; it merely requires that applicants meet the terms and conditions established by fish and wildlife agencies. But I am satisfied with the assurances from Chairman McCLURE that we went too far with this grandfather amendment and that it will be resolved in the conference committee.

Second, regional nature of certain projects. Chairman McCLURE and I engaged in a colloquy on April 11, also, which stressed the need to consider the regional aspects of certain hydroelectric projects in the Pacific Northwest. Specifically, these refer to certain large hydroelectric dams on the mid-Columbia River that were developed in the 1950's with non-Federal financing when the Federal Government decided not to appropriate further moneys to build Columbia River dams. Certain public utilities, with the assistance long-term purchase contracts from private utilities, took great financial risks in developing these huge projects. They have become vital to the economic prosperity of the region they serve. Due to the reference to relative economic impact on each applicant in section 15(b) of the bill, I want to ensure that adequate protection is given to the region in which such projects are located by the FERC during a relicensing proceeding.

Third, fish and wildlife protection: Generally, I think we have made a good start with the provisions adopted in S. 426. Explicit reference of adequate protection, mitigation, and enhancement in section 10(a) was a good step forward. In some cases, however, the House has gone further and has differed in emphasis. This is one area where the conference committee will need to work hard to resolve the House and Senate differences.

Fourth, replacement power: This is a vague concept that can be subject to a great deal of misinterpretation. The larger issue of compensation to an existing licensee who loses its license in a relicensing proceeding is a very difficult one. I struggled with this issue for a long time before introducing one concept in my bill, S. 1260. We should keep in mind, however, that the issue of replacement power must be considered in the context of the overall bill. In this sense, S. 426, as amended, provides the incumbent licensee with a strong preference in relicensing but doesn't provide any level of compensation, in the event the incumbent loses its license, beyond the level of net depreciated investment plus severance damages. My concern here is that the existing licensee will try to raise its estimate of its replacement power to an artificially high level in order to protect its license.

In summary, I wish to thank the floor managers of the bill, Chairman McCLURE and Senator JOHNSTON, for their courtesies to me during consideration of this bill in committee and on the floor. I have taken a strong interest in this bill due to its enormous impact on the State of Washington. I look forward to working with them and their staffs as S. 426 and H.R. 44 now go to the conference committee.

Mr. WALLOP. Mr. President, last night the Senate agreed to an amendment offered by the Senator from Montana which would clarify that the provisions of section 211(c)(2)(B) do not prevent an applicant from filing for a wheeling order prior to the time at which a rate on file with the Commission actually terminates. Given the hour, I thought that I would not join in the discussion since all parties were in agreement as to the intent and effect of the amendment. As the sponsor of this legislation, I do want the record to reflect that I fully agree with the analysis given last night and especially with the comments of the Senator from Louisiana who also in-

troduced legislation on this subject and who I worked closely with to develop the particular approach which the committee brought to the floor.

I want the record to be absolutely clear that the only thing the amendment does is clarify that an application can be filed prior to the termination of a rate schedule pursuant to the term of the schedule and by order of the Commission. It only clarifies that an applicant does not have to go "cold turkey" before he can even file. The amendment does not, and I want to repeat, not, make any substantive change in the requirements of sections 211 or 212 which must be satisfied before a wheeling order can issue. It also does not in any way affect, lessen, or modify the standards, criteria, restrictions, requirements, procedures, or practices under sections 205 or 206 for modifications or termination of a rate schedule.

If a utility has a rate schedule on file, which would expire 10 years from now, the utility which is receiving energy can file for a wheeling order tomorrow which, if granted, would go into effect 10 years from now. Section 211(c)(2)(B) does not act as a bar to the filing of such a request. Section 211(c)(2)(B) does continue to act as a bar to such an order being issued and going into effect however prior to termination in 10 years in accordance with the terms of the rate and by order of the Commission. It seems to me that such a filing is premature and the Commission probably has better things to do than considering wheeling orders for 10 years from now, but I see no reason why a utility should not be able to simply file.

Such a filing does not in any way serve as a basis for contract abrogation, modification, cancellation, or termination. The provisions of sections 205 and 206 are unaffected by this amendment or any action taken pursuant to it. The timing of filing has absolutely nothing to do with whether an order will meet the requirements of the Federal Power Act.

Mr. McCLURE. Mr. President, before passage of S. 426, I wish to express my appreciation to those who are responsible for resolving this issue. Although I fully support this measure and am pleased to be able to manage it, this legislation is properly credited to both Senator WALLOP and Senator JOHNSTON. They began this process with two different approaches to the issue of relicensing, but they devoted the time and their considerable skills to develope this legislation.

I also wish to express my appreciation to Senator MURKOWSKI, the chairman of the Subcommittee on Water and Power, who brought the legislation to the full committee with an exceptional hearing record. Senator METZENBAUM has also been extremely cooperative. I still believe that his amendment is irrelevant to the issue at hand, but I am grateful for the time and effort which he and his staff, especially Doug Lowenstein and Eddie Correia, devoted to resolve their concerns in a way which would not impede passage of this legislation.

Finally, I thank the members of the staff who worked on this legislation; Mike Harvey, our committee's minority counsel; Bill Conway of the minority staff; Frank Cushing, Gary Ellsworth, Jim Beirne, Dave Doane, Howard Useem, and Russ Brown of the committee staff. Their time and effort greatly assisted the committee and the Senate in reaching this point. I also thank Lynn Monroe of Senator WALLOP's staff and Art Noonan of Senator MELCHER's staff for their valuable contributions.

ROLE OF STATE WATER LAW IN FERC LICENSES

Mr. BAUCUS. Mr. President, I was prepared to offer amendments to S. 426 to require FERC licensees to conform to State water law. My amendments would have provided that prospective water power projects must obtain water rights under State law before obtaining a FERC license; that FERC cannot authorize exercise of eminent domain powers to obtain water rights; and that FERC license terms cannot be inconsistent with terms of the State water use authorization.

I believe that section 27 of the original Federal Power Act articulated Congress' intent not to preempt State water law. Instead, under the Supreme Court's current interpretation of the law, FERC is only required to consider State resource plans and the recommendations of appropriate State agencies when evaluating license applications.

With the recent proliferation of applications for FERC licenses, there is growing concern about how new water projects could affect State resource plans and existing water rights. My amendments would require FERC licensees to obtain water rights under State laws and State procedures, and would prevent situations where FERC licensees might deprive a rancher or other water user, either upstream or downstream, of his established water rights.

For example, under current law FERC could grant a license to site a project on a river which has been fully adjudicated among current users. The FERC license would upset the State adjudication, and the licensee could force a rancher or other water user to sell his water right. In addition, it is unclear how interstate compacts and compacts with Indian tribes could be affected by FERC licensing decisions; based on Supreme Court interpretations of current law, it appears that a FERC licensing decision could affect such compact agreements. These possibilities are critically important to many States, tribes, and individual water users; they raise serious questions about States' rights and the appropriate role of FERC, and I think they warrant immediate investigations.

I am aware, Mr. President, of the controversial nature of these amendments. This is a complicated area of law. I have discussed my proposals with the distinguished chairman of the Energy Committee, and he has agreed to hold a hearing on this matter during this Congress so that the committee can consider the proper role of State water law in FERC licensing procedures.

Mr. McCLURE. Mr. President, the Senator from Montana is correct. I share his concerns about how these power projects affect State resource planning. I agree that the committee should examine his proposals and the effects of preemption on State resource planning and existing water compacts.

I appreciate the Senator's cooperation in not offering his amendments for full Senate consideration at this time, and I can assure him that I will work with him and schedule a hearing at an appropriate time during this Congress.

Mr. BAUCUS. I thank the Senator. With that understanding, I will not offer my amendments today to S. 426. I look forward to working with the chairman and with other members of the Energy Committee in exploring these important issues.

Mr. President, these amendments are supported by the Western States Water Council. I ask unanimous consent that a resolution adopted by the council appear in the RECORD.

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

POSITION OF THE WESTERN STATES WATER COUNCIL CONCERNING AMENDMENT OF THE FEDERAL POWER ACT

Whereas, needless controversy has been caused by conflicts between the licensing procedures of the Federal Energy Regulatory Commission (FERC) and established principles of Western States water law; and

Whereas, FERC has been unwilling to modify its procedures to relieve these conflicts:

Now, therefore, be it resolved by the Western States Water Council that the Federal Power Act (16 U.S.C. 791(a) *et seq.*) be amended as follows:

1. Strike from subsection ((b) the following language ". . . and to the appropriation, diversion, and use of water for power purposes . . ." Add the following new subsection after subsection (c):

"(d) Notwithstanding any other provisions of law, the commission is prohibited from issuing an original or new license, amendment to license, or exemption from licensing under this Part, unless the applicant proves acquisition, in accordance with applicable substantive and procedural provisions of state law, of the necessary rights estab-

lished pursuant to state law to appropriate, divert, and use water for power purposes."

2. To Section 21 add the following new sentence:

"The commission is not empowered to authorize a licensee to exercise the right of eminent domain pursuant to this section for the purpose of acquiring water rights."

3. In Section 27 designate the existing sentence as subsection (a) and add the following additional subsections:

"(b) Nothing in this Part shall be construed as conferring upon the United States, its agents, permittees, or licensees any right to acquire rights to appropriate, divert, or use water.

(c) Appropriation of water for power purposes subject to this Part shall be pursuant to substantive and procedural provisions of State statutory law, decisional law, and regulations governing appropriation, diversion and use of water.

(d) Establishment of, and compliance with, pursuant to State law, terms or conditions, including licenses, or other entitlements for appropriation, diversion or use of water for power purposes, shall not be deemed to constitute a burden on interstate commerce.

(e) Nothing in this Part shall alter in any way any provision of State statutory law, decisional law, or regulation, or of any interstate compact, governing the appropriation, diversion, or use of water."

4. To Section 6 add the following provision after the second sentence:

"The commission is not empowered to impose any terms or conditions in any original or new license or amendment to license which are inconsistent with the terms and conditions established pursuant to State law in any permit, license, or other entitlement for appropriation, diversion, or use of water for the project authorized by the license or amendment."

Mr. JOHNSTON. Mr. President, I ask unanimous consent that any Senator may put a statement in the RECORD with respect to S. 426 during the balance of the day, and that it be entered in the RECORD immediately prior to the vote.

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

Mr. SPECTER. Mr. President, the Electric Consumers Protection Act presents problems for municipal and rural electric cooperative consumers in Pennsylvania. I support S. 426, but I do so with some wariness about the future effect of its passage.

I am concerned that the alterat.on of the relicensing preference may provide the impetus for the elimination of all preferencing, especially as it applies to the marketing of hydroelectric power under various statutes. This would not be in the best interests of Pennsylvania's electric consumers.

Since 1966, for instance, Pennsylvania's rural electric cooperatives have benefited from low-cost hydroelectic power generated by the Power Authority of New York under the Federal license granted to it in the Niagara Redevelopment Act, drafted among others by Pennsylvania Senator Joe Clark. That license provides that a percentage of the power generated at the project must be sold to out-of-State preference customers. Since 1966, this low-cost power has saved rural electric cooperative members $175 million over what they would otherwise have had to pay for power. This arrangement serves as a fine example of the preference clause in action, granting the public customer the first right of refusal.

I also have reservations about the anticompetitive aspects of this legislation. In a circumstance similar to this one, under the Atomic Energy Act, municipalities have a right to bring their antitrust concerns to the attention of the Federal Government. For this reason, I am today cosponsoring Senator METZENBAUM's amendment, which will provide for a review of the anticompetitive effects of an investor-owned utility's assumption of a hydroelectric license.

The impact of this legislation on the preference clause and the competitiveness of hydroelectric relicensing are two issues which will continue to command my attention. I am hopeful that my colleagues will share my concern, and I look forward to working with them to ensure that the interests of electric consumers continue to be protected.

Mr. LAUTENBERG. Mr. President, S. 426, the Electric Consumers Protection Act, clarifies Federal regulation of hydroelectric development. It also strengthens protection of fish and wildlife resources which can be adversely affected by hydroelectric development. I believe that these are valid reasons for passing this bill.

Last Friday, however, the Senate passed an amendment, with virtually no debate, which undermined one of the important improvements in the bill. Section 10 of the committee bill established a new requirement that power production facilities at new hydroelectric dams meet terms and conditions established by fish and wildlife agencies if they are to receive financial benefits under section 210 of the Public Utility Regulatory Policies Act. Section 10, then, would eliminate Federal incentives which have been resulting in an adverse impact on our Nation's rivers and the important fish and wildlife resources which utilize these rivers for habitat.

The Senate voted last Friday, however, to exempt projects from the requirement to comply with fish and wildlife agency conditions to protect fish and wildlife when an application for a hydroelectric facility had been filed prior to April 11, 1986. This amendment, which grandfathered numerous projects from the new section 10 requirement, significantly weakens the environmental protections contained in the bill.

I understand that both Senators EVANS and HATFIELD have received assurances from Senator MCCLURE, chairman of the Committee on Energy and Natural Resources, that he will work to narrow the scope of the grandfather provision during the conference committee deliberations on this bill. I am voting for S. 426 based on these assurances.

AMENDMENT NO. 1792, S. 426

Mr. MELCHER. Mr. President, last night, the Senate agree to my amendment No. 1792. As the author, I want to clearly state the purpose and intent of amendment No. 1792. The purpose of my amendment is to clarify the intent of a particularly ambiguous provision of PURPA. Section 211(c)(2)(B) of PURPA was confusing and in need of clarification. The amendment makes clear that a wheeling application may be filed prior to termination or modification of an existing rate schedule at the Federal Energy Regulatory Commission [FERC] and that wheeling under this section becomes effective at the time of the termination or modification of the rate schedule. The amendment permits FERC to issue a wheeling order which would become effective at the time of the modification or termination of a rate schedule. Thus, the fact that a rate schedule is on file at FERC would not preclude FERC action on a wheeling application. Moreover, nothing in this amendment or section is intended to alter in any way the existing law as to sections 205 and 206 of the Federal Power Act.

Mr. DOLE. Mr. President, we do have a vote set at noon. I know there is at least one Member on each side that would rather have it later, but I do not know what we can do about it because there is objection to doing it later.

I do wish to thank the managers of the bill and the committee staff who have worked so hard. I thank the distinguished chairman of the committee, Senator MCCLURE, and the distinguished manager on the Democratic side, Senator JOHNSTON, for their patience and their effort.

We had a number of votes yesterday which I believe strengthened their hand in conference. Not being an expert on this bill, I am not certain what the issue ever was, if there was an issue. I know there were votes.

It is good that we will finish the bill today because we are getting into sort of heavy water here in the Legislative Calendar. Had we not been able to conclude it today, it may have been some time before we would have been able to return to it.

But, in any event, I thank my colleagues for their patience. I believe they were able to satisfy, to some degree, the concerns expressed by the Senator from Montana, Senator MELCHER.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ELECTRIC CONSUMERS PROTECTION ACT

The PRESIDING OFFICER. The clerk will report the pending bill.

The assistant legislative clerk read as follows:

A bill (S. 426) to amend the Federal Power Act to provide for more protection to electric consumers.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? 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. Announced that the Senator from South Dakota [Mr. ABDNOR] and the Senator from Florida [Mrs. HAWKINS] are necessarily absent.

I also announced that the Senator from Arizona [Mr. GOLDWATER] is absent due to illness.

On this vote, the Senator from Florida [Mrs. HAWKINS] is paired with the Senator from South Dakota [Mr. ABDNOR].

If present and voting, the Senator from Florida would vote "yea" and the Senator from South Dakota would vote "nay."

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

The result was announced—yeas 83, nays 14, as follows:

[Rollcall Vote No. 75 Leg.]

YEAS—83

Andrews	Dole	Johnston
Armstrong	Domenici	Kassebaum
Baucus	Durenberger	Kasten
Bentsen	Eagleton	Kennedy
Bingaman	East	Kerry
Boren	Evans	Lautenberg
Boschwitz	Ford	Laxalt
Bradley	Garn	Levin
Bumpers	Glenn	Long
Burdick	Gorton	Lugar
Byrd	Gramm	Mathias
Chafee	Grassley	Matsunaga
Chiles	Hatch	Mattingly
Cochran	Hatfield	McClure
Cohen	Hecht	McConnell
Cranston	Heflin	Melcher
D'Amato	Heinz	Mitchell
Danforth	Helms	Moynihan
Denton	Hollings	Murkowski
Dixon	Humphrey	Nickles
Dodd	Inouye	Nunn
Packwood	Roth	Thurmond
Pell	Rudman	Trible
Proxmire	Simpson	Wallop
Pryor	Specter	Warner
Quayle	Stennis	Weicker
Riegle	Stevens	Wilson
Rockefeller	Symms	

NAYS—14

Biden	Hart	Sasser
DeConcini	Leahy	Simon
Exon	Metzenbaum	Stafford
Gore	Pressler	Zorinsky
Harkin	Sarbanes	

NOT VOTING—3

Abdnor	Goldwater	Hawkins

So the bill (S. 426), as amended was passed, as follows:

S. 426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Electric Consumers Protection Act of 1985".

SEC. 2. Section 7(a) of the Federal Power Act (16 U.S.C. 800(a)), as amended, is further amended—

(a) by inserting "original" after "hereunder or"; and

(b) by striking "and in issuing licenses to new licensees under section 15 hereof".

SEC. 3. Section 10 of the Federal Power Act (16 U.S.C. 803), as amended, is further amended—

(a) in existing subsection (a) after "water power development,", by inserting "for the adequate protection, mitigation, and enhancement of fish and wildlife,";

(b) in existing subsection (a) after "including", by inserting "irrigation, flood control, water supply and"; and

(c) by redesignating existing subsection (a) as paragraph (a)(1) and by inserting the following new paragraphs:

"(2) In order to ensure that the project adopted will be best adapted to the comprehensive plan described in paragraph (a)(1), the Commission shall consider:

"(A) the extent to which the project is consistent with a comprehensive plan (where one exists) for improving, developing, or conserving a waterway or waterways affected by the project that is prepared by—

"(i) an agency established pursuant to Federal law that has the authority to prepare such a plan; and

"(ii) the State in which the facility is or will be located; and

"(B) the recommendations of Federal and State agencies exercising administration over fish and wildlife, flood control, navigation, irrigation, recreation, and cultural resources of the State in which the project is located, and the recommendations of Indian tribes affected by the project; and

"(C) if the applicant is an electric utility, its plans for energy conservation through energy efficiency programs.

"(3)(A) Upon receipt of an application for a license, the Commission shall solicit recommendations from the agencies and Indian tribes identified in paragraph (a)(2) of this section for proposed terms and conditions for the Commission's consideration for inclusion in the license;

"(B) If any recommendation for a proposed term or condition is received by the Commission within one hundred and twenty days of the public notice of any license application under this section, the Commission shall explain in writing its reasons for adopting, rejecting or modifying any such proposed term or condition.".

SEC. 4. Section 15 of the Federal Power Act (16 U.S.C. 808), as amended, is further amended—

(a) by striking subsection (a) through "terms and conditions to a new licensee," and inserting in lieu thereof:

"SEC. 15(a). If the United States does not, at the expiration of the existing license, exercise its right to take over, maintain and operate any project or projects of the licensee, as provided in section 14 of this Act, the Commission may issue a new license to the existing licensee upon such terms and conditions, taking into account existing structures and facilities, as may be authorized or required under the then existing laws and regulations, or to another applicant under said terms and conditions. If the existing licensee applies for a new license, the Commission shall issue a new license to such existing licensee unless the Commission determines that the plans of another applicant are better adopted to serve the public interest. If the existing licensee does not apply for a new license, the Commission shall issue a new license to the applicant the plans of which are best adapted to serve the public interest. In either case, the Commission shall not issue a license unless it is satisfied that (1) the applicant is able to carry out such plans and (2) the plans represent a cost effective approach to achieving the benefits to be derived therefrom.

"(b) The Commission shall make its determination of which plans are best adopted to serve the public interest on the basis of—

"(1) how each plan would develop, conserve, and utilize the water resources of the region in accordance with the provisions of section 10(a) of this Act;

"(2) the relative economic impact upon customers served by each applicant upon the failure of such applicant to receive the license, including an assessment of the economic impact upon the customers of an applicant that is the existing licensee that would result from the difference between the compensation to be paid under subsection (c) of this section and the cost of replacement power;

"(3) the economic impact, in the case of a nonutility license holder, upon the operation and efficiency of the dependent industrial facility or related activity, its existing employees, and the surrounding community, if the existing licensee fails to receive the new license;

"(4) the ability of each applicant to operate and maintain the project in a manner most likely to provide efficient, reliable eletric service; and

"(5) the need of each applicant for the electricity generated by the project or projects to serve its existing customers including customers served by any electric utility which receives power from the existing licensee.";

(b) by redesignating the remainder of subsection (a) as subsection (c);

(c) by striking "which license" and inserting in lieu thereof "A license issued under this section";

(d) by redesignating existing subsection (b) as subsection (d);

(e) by adding a new subsection:

"(e) A new license may only be issued for a period not to exceed thirty years unless the Commission determines that a longer period is necessary due to substantial new construction or significant redevelopment of the project in question. In no case shall a new license be issued for a period of more than fifty years."; and

(f) by adding a new subsection:

"(f) Notwithstanding any other provision of this section, for projects using tribal lands embraced within Indian reservations, the original license for which was issued prior to October 1, 1985 and for which a new license has not yet become effective by such date, the Commission shall not consider the factors set forth in sections 15(b)(2) and 15(b)(5) in evaluating the plans of Indian tribes to which such lands belong that apply for a new license.".

SEC. 5. The amendments made by this Act shall not apply to any relicensing proceeding in which the Federal Energy Regulatory Commission has issued an order awarding a new license on or before July 31, 1985, regardless of whether such order is subject to judicial review, nor shall they operate to diminish the amount of the annual charge to be paid pursuant to section 10(e) of the Federal Power Act to Indian tribes for the use of their lands within Indian reservations.

SEC. 6. Section 30 of the Federal Power Act (16 U.S.C. 824), as amended, is further amended by striking subsection (b) and inserting in lieu thereof the following new subsection:

"(b) Exemptions granted under subsection (a) of this section shall be granted for a period not to exceed thirty years unless the Commission determines that a longer period is necessary due to substantial new construction or significant redevelopment of the project in questions. In no case shall an exemption be granted for a period of more than fifty years. The Commission may not grant any such exemption to any facility the installed capacity of which exceeds 15 megawatts.".

SEC. 7. Section 405 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2705), as amended, is further amended in subsection (d) by inserting at the end thereof: "Exemptions shall be granted for a period not to exceed thirty years unless the Commission determines that a longer period is necessary due to substantial new construction or significant redevelopment of the project in question. In no case shall an exemption be issued for a period of more than fifty years."

SEC. 8. Section 6 of the Federal Power Act (16 U.S.C. 799), as amended, is further amended after "fifty years" by inserting "unless the Commission determines a shorter period is desirable".

SEC. 9. The amendments made by sections 6 and 7 of this Act shall apply only to exemptions granted after the date of enactment of this Act.

SEC. 10. Section 3(17) of the Federal Power Act (16 U.S.C. 796(17)), as amended, is further amended—

(a) by adding a new paragraph (B) as follows:

"(B) Notwithstanding paragraph (A), no hydroelectric project shall be considered a small power production facility (other than for purposes of section 210(e) of the Public Utility Regulatory Policies Act of 1978) if such project impounds or diverts the water of a natural watercourse other than by means of an existing dam or diversion, unless:

"(i) such project is located at a Government dam; or

"(ii) such project meets terms and conditions set by fish and wildlife agencies under the same procedure as provided for under section 30(c) of the Federal Power Act;

"(iii) for the purposes of this paragraph, the term 'existing dam or diversion' means any dam or diversion that is part of a project for which a license has been issued on or before the enactment of this paragraph, or which the Commission determines does not require any construction or enlargement of impound structures (other than repairs or reconstruction) except for the addition of flashboards (or similar adjustable devices);"; and

(b) by redesignating the existing paragraphs.

SEC. 11. The amendments made by section 10 of this Act shall not apply to any hydroelectric project for which an application for a license or preliminary permit was filed with the Federal Energy Regulatory Commission on or before April 11, 1986.

SEC. 12. Section 26 of the Federal Power Act (16 U.S.C. 820), as amended, is further amended—

(a) by redesignating existing section 26 as "section 26(a)"; and

(b) by adding the following new subsections:

"(b) The Commission may—

"(1) after opportunity for a hearing on the record revoke for significant violation of its terms any permit, license, or exemption issued pursuant to this Act, whether granted under this Act or another provision of law;

"(2) issue such other orders as it deems necessary to ensure compliance with the provisions of this part, or of any lawful regulation or order promulgated thereunder, or of any permit, license, or exemption issued pursuant to this Act, whether granted under this Act or another provision of law.

"(c) The Commission may institute proceedings in the district court of the United States in the district in which the project or part thereof is situated for the purpose of enforcing an order of the Commission under subsection (b) of this section. The court shall have the same powers as provided for under subsection (a) of this section.".

(c) Section 13 of the Federal Power Act, as amended, is further amended by striking the final sentence thereof.

(d) Section 26(a) of the Federal Power Act, as amended, is further amended—

(1) by striking the first sentence and inserting in lieu thereof the following sentence: "The Commission, or the Attorney General on request of the Commission or of the Secretary of the Army, may institute proceedings in equity in the district court of the United States in the district in which any project or part thereof is situated for the purpose of revoking for significant violation of its terms any permit or license issued hereunder or any exemption from any requirement of this Act, whether granted under this Act or another provision of law, or for the purpose of remedying or correcting by injunction, mandamus, or other process any act of commission or omission in violation of the provisions of this Act or of any lawful regulation or order promulgated hereunder."; and

(2) by adding at the end thereof the following new sentence: "In the case of revocation of an exemption from any requirement of this Act, whether granted under this Act or another provision of law, the courts may exercise the same powers as they have under this section with respect to revocation of a license.".

(e) Section 402(a)(2)(A) of the Department of Energy Organization Act, as amended, is further amended by inserting between "4," and "301" the following: "5, 13, 26, 30,".

(f) The amendments made by this section shall apply to licenses, permits, exemptions, rules, regulations, and orders issued before, on, or after the date of enactment of this Act.

SEC. 13. Nothing in this Act shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this Act—

(a) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any groundwater resource,

(b) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States, or

(c) otherwise be construed to alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

SEC. 14. Section 10(h) of the Federal Power Act (16 U.S.C. 803(h)) is amended by redesignating section 10(h) as 10(h)(1) and adding a new section 10(h)(2) as follows:

"(2) That conduct under the license that: A) results in the contravention of the policies expressed in the antitrust laws; and B) is not otherwise justified by the public interest considering regulatory policies expressed in other applicable law (including but not limited to those contained in Part II of this Act) shall be prevented or adequately minimized by means of conditions included in the license prior to its issuance. In the event it is impossible to prevent or adequately minimize the contravention, the Commission shall refuse to issue the license to the applicant."

SEC. 15. Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended—

(a) by striking "And provided further" and inserting in lieu thereof "Provided further"; and

(b) by striking the final period "." and inserting in lieu thereof the following: ": And provided further, That upon the filing of any application for a license the Commission shall seek to notify by certified mail the owner or owners of the property within the bounds of the project, and any State, municipality or other local governmental entity likely to be interested in or affected by such application.".

SEC. 16. Section 211(c)(2)(B) of the Federal Power Act is amended by adding before the period the following: ": Provided, That nothing in this subparagraph shall prevent an application for an order hereunder to be filed prior to termination or modification of an existing rate schedule: Provided, That such order shall not become effective until termination of such rate schedule or the modification becomes effective".

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I think it is obvious from the nature of the controversy that surrounded this measure not only in committee but on the floor that staff has done an extraordinary job. That is true of staff on the minority side as well as the majority staff for the Committee on Energy and Natural Resources. I very much appreciate the cooperation particularly of both Senators WALLOP and the distinguished ranking minority Member, the Senator from Louisiana [Mr. JOHNSTON]. Both Senator WALLOP

and Senator JOHNSTON were principal sponsors of legislation that was merged to bring this bill to the floor at this time. I very much appreciate their cooperation.

Mr. DOLE. Mr. President, the distinguished Senator from South Dakota [Mr. ABDNOR] would have voted "no" had he been here, but his plane, as happens to some of us from time to time, was unable to land. He should have been here about 11:45, but bad weather is sometimes a nemesis. In this case it was for Senator ABDNOR. He will have a statement for the record.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, it is my hope now that we can move to the consideration—I will not make that motion yet—of technical amendments to the crime bill. I have discussed this with the distinguished chairman of the Judiciary Committee. Senator HELMS has an interest in it also. He would like to offer one amendment. There is information on the way to the floor for certain principals involved in that particular action. So, as soon as the information is available and Senator THURMOND and Senator BIDEN are here, I would hope we might move to that bill. As I understand it, it will not take any length of time.

I am advised by the chairman of the Judiciary Committee that he is not prepared to move to the bankruptcy judges bill, which means that bill may not be seen again for 60 or 90 days. In any event, there are objections to bringing that bill up from at least two Senators on the committee.

Mr. BYRD. Mr. President, will the distinguished majority leader yield? I believe the majority leader indicated earlier this morning he was going to have a meeting on the other side of the Capitol around 1 o'clock. Will he be able to state upon his return as to whether or not the budget resolution will be laid down?

Mr. DOLE. That meeting is scheduled for tomorrow, Friday, at 12 o'clock.

Mr. BYRD. Could the distinguished majority leader indicate whether or not there is a good possibility that he will lay the budget resolution down tomorrow? He had indicated earlier that he might, and I hope he can do that.

Also, I will ask one further question: What does he see in store for Monday, if he is able to state it at this point? He indicated earlier that there would be no rollcall votes tomorrow. Senators may base their programming for the weekend in their home States according, therefore, and it would be helpful if we could be told whether or not there will be rollcall votes on Monday. So, would votes be before 3 o'clock or after 4 o'clock, or whatever?

Mr. DOLE. Mr. President, we are trying to put together a schedule for Monday that would not require rollcall votes. Obviously, we do not want a rollcall just to have a rollcall.

There are two or three minor bills we may be able to do early Monday, and I will contact the minority leader about those. I am not yet prepared to say that there will be no votes; but if there were votes, I assume they would come sometime after 2:30.

Mr. BYRD. Would the majority leader be in a better position to discuss this a little later today, so that those who may be making their reservations to leave this evening can take advantage of the opportunity to be in their States tomorrow, so that they could plan their Monday schedule?

Mr. DOLE. I do not know which Senators may be involved in the bills we are looking at. If they can help us, unless there is some strong reason why they cannot let it go by a voice vote, that would be helpful and would make our decision much easier.

Mr. BYRD. I thank the distinguished majority leader.

I will inquire further this afternoon as to the prospects for Monday, if the distinguished leader will be prepared to respond at that time.

MARTIN LUTHER KING, JR., FEDERAL HOLIDAY COMMISSION

Mr. DOLE. Mr. President, it is my understanding that the bill extending the Martin Luther King Commission has been cleared on the other side, and it is now cleared on this side. On behalf of myself, and Senators KENNEDY, D'AMATO, MATHIAS, and HOLLINGS, I send the bill to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2319) to provide for the continuation of the Martin Luther King, Jr., Holiday Commission until 1989, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. BYRD. There is no objection, Mr. President.

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I am pleased to join in cosponsoring this legislation which would extend the life of the Martin Luther King, Jr., Federal Holiday Commission for 3 years. I have been pleased to serve on this Commission over the past year during the historic first celebration of the King Federal holiday. The Commission has done much good work, but more can be done to promote the spirit of equality and justice which our new holiday represents.

It should be emphasized that no Federal money is appropriated for the Commission; rather, it operates entirely on donated funds. Over the past year, a number of businesses and organizations have contributed money to the work of the Commission and under the extension legislation, the Commission would continue to be funded from these sources.

In addition to extending the life of the Commission for 3 years, this bill would expand the number of Commission members to enable a broader range of the populace to be represented. Expanding the size of the Commission should also enhance its ability to raise private sector funds.

Mr. President, I have very much enjoyed working with Mrs. King and members of the King family on this worthwhile cause. I believe last January's celebration was a fine success and demonstrates that the Holiday Commission deserves to be continued.

Mr. KENNEDY. Mr. President, it is a privilege for me to introduce this legislation, cosponsored by Senators D'AMATO, DOLE, MATHIAS, and HOLLINGS, to extend the Martin Luther King, Jr. Federal Holiday Commission for 3 additional years.

We do so because, despite the extraordinary nationwide success of the first King celebration last January, there is still much to be done.

Let us remember again why we honor Dr. King. With this national holiday, he took his place as the founding father of the second American revolution, the revolution of civil rights.

At a time when our Nation was paying lipservice to liberty but ignoring ingrained generations of injustice—Martin Luther King's simple irresistible message of "Freedom Now" called America to witness the discrimination in our midst, and to embrace the enduring principle of equality—not just in the promise of the Constitution, but in the reality of our daily lives. He stripped the scales of racism from our eyes, and showed us the scales of justice.

The urgency and the power of his message of peaceful change could not be denied. He awakened the dormant conscience of our country. Now is the time, he said, for civil rights. Now is the time for the right to vote. Now is the time for human rights in this land—and in every place on Earth.

Because Martin Luther King lived, millions of Americans were set free at last from the cruel iron shackles of centuries of segregation. Because he dreamed, millions found that their own dream of a better life could be achieved.

He liberated whites as well as blacks—for in the end, racism always imprisons those on both sides of the color bar.

The meaning of the first Martin Luther King holiday is clear. The dream is still on the march. The faith of Dr. King is still moving the mountains of injustice and discrimination.

In celebrating his birthday as a national holiday, we are also mindful of the tragic circumstances that took Dr. King from us so young, when he still had so much to do. We are mindful of the difficulty of the journey that lies ahead—and the courage that each of us must summon anew, to put aside complacency and appeals to narrow interest, and complete for our time and for all time the pilgrimage that he began.

President Kennedy, in his inaugural address in 1961, proclaimed that the torch of leadership had passed to a new generation of Americans, unwilling to permit the slow undoing of those human rights to which this Nation has always been committed. And Martin Luther King, Jr. became America's greatest leader in that cause.

The Martin Luther King, Jr. Holiday Commission, created in 1983, performed a valuable service to the Nation in laying the groundwork for the first observance of the holiday this year. Its success can be measured in many ways: 37 States and 3 territories established their own holiday commissions to commemorate Dr. King in their jurisdictions; 40 States and 4 territories enacted an official State or territorial holiday, parallel to the Federal holiday; over 1 million Americans signed "I have a Dream" pledge cards, recommitting themselves to Dr. King's dream; and over 30 million Americans viewed the NBC entertainment tribute to Dr. King last January 20.

The Commission, so ably chaired by Coretta Scott King, who has done so much to keep Dr. King's dream alive, deserves great credit for the success of this year's celebration. But the larger work of the Commission is not yet finished. This legislation will permit the Commission to carry on its effective work for the next 3 years, and in doing so, we will enable the Commission to continue to spread Dr. King's message of justice and hope, and bring us all to a deeper understanding of his life and his remarkable contributions that made this a better land for all Americans. I urge the Senate approve this measure, so that the Commission may continue its essential work.

Mr. MATHIAS. Mr. President, I am pleased to join my colleagues, Senators D'AMATO, KENNEDY, DOLE, and HOLLINGS, in sponsoring legislation to change the termination date of the Martin Luther King, Jr. Federal Holiday Commission.

The Holiday Commission was established in August 1984 by Public Law 98-399 to assist in the first observance of the Federal legal holiday honoring Martin Luther King, Jr. Under the able leadership of Coretta Scott King, and with no appropriation from the Federal Treasury, the Commission established the theme for the holiday, planned and coordinated ceremonies and activities in keeping with the observance, and generally set the tone which made the first holiday observance a success.

To build on this success, we introduce this legislation to extend the life of the Commission from April 1986 to April 1989. With the extension, the Commission can keep up the momentum established by the first observance and pay particular attention to institutionalizing the holiday and assuring its future success through guidance and assistance to the various State holiday commissions.

As we observe Dr. Martin Luther King, Jr.'s birth as a natonal holiday, we do more than simply honor Dr. King. We also promote the spirit of reconciliation and peacemaking that is Dr. King's legacy to us. The enactment of this bill will advance this broad concept of our new national holiday.

Mr. HOLLINGS. Mr. President, today, I join in cosponsoring legislation to extend the life of the Martin Luther King, Jr., Federal Holiday Commission for 3 additional years, and to increase the number of Commissioners from 14 to 23. No Federal funds would be required, and the activities of the Commission will continue to be supported by private donations.

Few people in our history have done more to change America than Martin Luther King, Jr. His vision for America—his dream—has come to symbolize the ideals of our most heralded forefathers. At a time when the soul of this great Nation was nearly torn apart by hate and fear, the perseverance and eloquence of this one great man inspired a people and a world to search souls and right civil wrongs.

And we, in Congress, had the knowledge and wisdom to recognize and commemorate this great man and his accomplishments by establishing a holiday—the Martin Luther King, Jr., Federal Holiday. It is a day set aside to reflect on the continuing struggle for a more perfect society where freedom, opportunity, and equal justice under the law are not just ideals but actualities for all.

To help our Nation celebrate this day in the appropriate spirit and manner, Congress also established the Martin Luther King, Jr., Federal Holiday Commission. The Commission was charged with the duty of coordinating efforts with Federal, State, and local governments to encourage appropriate ceremonies and activities, and to provide advice and assistance to both the public and private sectors for planning and participating the first celebration of this holiday.

For the first time in history, this country shared Martin Luther King's dream by celebrating his birthday on January 20, 1986. I had the opportunity to participate in some of the activities and ceremonies symbolic of Dr. King's dream, as did many other citizens across the Nation. The Martin Luther King, Jr., Federal Holiday was a success, and the Commission was, to a large degree, responsible for this great achievement.

Now, we must ask ourselves, "what next?" How should Americans celebrate this holiday for years to come? Will future generations associate Dr. King's birthday with long weekends and departments store sales? I would hope not. The great challenge facing this country is to ensure that our descendants honor Dr. King on his birthday by confronting their own consciences, reflecting on democratic ideals and the King legacy, and working to fulfill his dream.

The legislation before us today helps to achieve that very purpose. On April 20, the Martin Luther King, Jr., Federal Holiday Commission is scheduled to expire. By extending the life of the Commission for 3 additional years, more work can be done to bring individuals together from all races, religions, and stations in life, who can join in the spirit of togetherness as a family, a community, and a Nation on this holiday. To achieve a task so great also calls for the dedication and hard work of individuals representing a larger segment of our society, who can bring to the Commission new ideas and creative talents.

If we continue to strive toward this goal—if we are able to impart to our children the message that Dr. King brought us—then it is my belief that in days to come, all Americans will celebrate this holiday by commemorating not only the dream articulated, but the dream fulfilled.

Mr. D'AMATO. Mr. President, I rise today, with the distinguished Senator from Massachusetts, Mr. KENNEDY, and the distinguished majority leader, Senator DOLE, to introduce a bill to amend Public Law 98-399, which established the Martin Luther King, Jr., Federal Holiday Commission. The purpose of our bill is to enable this Commission to continue its work with respect to our annual celebration of Mr. King's birthday, to remind America and the world of those ideals for which Mr. King marched, preached, and finally died.

Since 1984, the Martin Luther King, Jr., Federal Holiday Commission, with great success, has encouraged and coordinated efforts with Americans from all walks of life in the observance of the first Federal legal holiday honoring Martin Luther King, Jr. The Com-

mission has assisted organizations and institutions from all segments of our society, from religious and educational to business, labor, and government.

The first observance, which took place this January, was a momentous success, but it was ony the first. We must make certain that this holiday will ignite Mr. King's spirit in all of us for years to come.

Unfortunately, the Martin Luther King, Jr., Federal Holiday Commission will expire on April 20, 1986, unless we act quickly. Our bill extends the mandate of this Commission through April 20, 1989. Passage of our bill does not cost the Federal Government a single penny, but gives this Commission new life and the opportunity to continue uninterrupted in its effort, indeed, our effort, to carry the legacy of Dr. King into the future.

The celebration of Martin Luther King's birthday is not just a celebration of a man and his life, or even of black people, but of a triumph of all people, black and white, over the chains of racial conflict that have bound the American people for years. It is a time for serious reflection on a dream for national unity. It is a day in which every American is involved in the celebration of Dr. King's life, legacy, and dream.

The Commission we established in 1984 assists us in this effort. This Commission has asked for, and received the cooperation of Governors and U.S. territories to establish their own holiday commissions. I know of 37 States and 3 territories which already have done so. Hopefully, this trend will continue. With passage of our bill, it will.

We must not stop now when we have just begun to make real, lasting progress. I believe there are many Members of this Congress who believe, as I do, in "bridge building," and that just as many realize that the bridge we have been building over the chasm of racial bigotry and conflict has taken the better part of our Nation's history. We must make certain that each celebration of Dr. King's birthday is a renewing of our commitment to make his dream come true.

I urge my colleagues to join us in a commitment we all share. I urge support and passage of this bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2319) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2319

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

SECTION 1. CONTINUATION OF COMMISSION.

(a) PURPOSE.—Section 3(1) of the Act of August 27, 1984 (98 Stat. 1473), is amended—

(1) by striking out "first"; and

(2) by inserting "first" before "occurs".

(b) ANNUAL REPORT.—Section 8 of the Act of August 27, 1984 (98 Stat. 1475), is amended by striking out ", 1986" and inserting in lieu thereof "of each year".

(c) TERMINATION.—Section 9 of the Act of August 27, 1984 (98 Stat. 1475), is amended by striking out "submitting its report under section 8" and inserting in lieu thereof "April 20, 1989".

SEC. 2. COMPOSITION OF COMMISSION.

Section 4(a)(6) of the Act of August 27, 1984 (98 Stat. 1473), is amended by striking out "fourteen" and inserting in lieu thereof "twenty-three".

Mr. HELMS. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

CRIME BILL

Mr. HELMS. Mr. President, I inquire of the two distinguished leaders if my understanding is correct that there will be no problem about calling up the crime bill if there is no amendment proposed. Is that the general situation?

Mr. DOLE. It is my understanding that if there is no amendment, there is no objection to calling up the bill. I am not certain, though, that those who may have objected understand precisely what the amendment might be.

Mr. HELMS. Let me say to my two very good friends that I do not believe any Senator will oppose this highly appropriate legislation contained in my amendment. It is to eliminate a moral scourge that is building in this country, and I do not say that lightly. It is this thing called "Dial-a-Porn," whereby children can dial a number, and it is charged to their parents' telephone bill, and then they listen for a few minutes, as I understand it, to the worst sort of garbage imaginable.

This amendment is very simple, and I will share copies of it with the leaders on both sides. I hope the Senate might agree to accept this amendment on a voice vote. I think that after the amendment is examined, there will be no problem about it. I understand that Senator BRADLEY, for example, is in favor of it, as are others. I will be glad to make a copy of the amendment and other documentation available to all Senators.

I did not know that the proposal to call up this amendment was going to be made today. The information is on the way over here. I ask both leaders if they will check and see if there is any objection to that amendment.

I might say that the Commission on Pornography will reportedly recommend this amendment. This was published in the paper yesterday. So I would appreciate the cooperation of both leaders on this, if possible. Otherwise, we could talk about freestanding consideration of the legislation, or whatever. But I do want the Senate to move on this piece of legislation.

Mr. DOLE. I certainly share the views just expressed by Senator HELMS. I do not know of any opposition to the particular amendment. I think the opposition was that if we start amendments, we may trigger a string of amendments. Maybe we could deal with it in a freestanding way or this way, if there is no objection.

On TV last week, they were giving some of the horror stories because of this kind of program and how it would expose very young children to a lot of, as the Senator from North Carolina has said, garbage; that they can just dial a number and someone there is willing to provide a service.

I have not looked at the amendment, but I hope we can deal directly with that kind of conduct. To shut it off would be the way to deal with it.

Mr. HELMS. That is precisely what the amendment would do—to put an end to this.

Mr. DECONCINI. Mr. President, I thank the Senator from North Carolina for trying to bring up that amendment at this time. I will support that amendment, and I hope he will continue to persist in bringing it up.

WHERE ARE OUR ALLIES?

Mr. DECONCINI. Mr. President, in 1962 when President Kennedy asked French President Charles De Gaulle to cooperate in the blockade of Cuba, the French leader replied with the loyalty of an ally; "If there is a war, I will be with you." He remembered that 4 million brave Americans served in World War I. He remembered that 116,708 Americans died in this defense of Europe. He remembered the dedication of 16 million Americans who served and the 407,298 who died in World War II. He had visited the American graves in Normandy. "Those Were the Days, My Friend," as the song goes.

The night before last, on the news, I watched as some European allies burned the American flag. As I painfully viewed the "Stars and Stripes" in flames, I thought about the missing F-111 and the French decision to deny overflight rights to these brave men. This only complicated the dangers of this rigorous mission, increasing the length by more than 1,200 miles. General De Gaulle would apologize for this cowardly abdication of responsibility and friendship by the French Government.

I am not proud of the conduct of the country of my ancestors in this affair. Italians as well as West Germans burned the American Flag that has twice liberated their peoples from a similar terror imposed by Adolph Hitler. Mr. Qadhafi utilizes the identical tactics and rhetoric that was used then. I feel a great sense of dismay, disappointment, and shame with this general practice of appeasement toward terrorists by our allies.

Mr. President, I looked up the word "alliance" and found as synonyms such words as "coalition," "union," "partnership," "cooperation," "affiliation." and "concern." I find these terms conspicuously absent in our alliance with France, Italy, and West Germany. I would like to thank Prime Minister Thatcher, who had carefully examined United States and British evidence against Libyan leader Qadhafi and found it conclusive, and supported the attack against Libya. She remembered. She remembered Churchill's words: "Never in the field of human conflict was so much owed by so many to so few."

After the fall of France in July of 1940, Charles De Gaulle broadcast from London to the French people the following message:

> Since those whose duty it was to hold the sword of France have let it fall, I have picked up its broken point.

Those were the days, my friends! Charles De Gaulle was a friend to the United States. He remembered. How quickly others have forgotten!

QADHAFI, TERRORISM, AND THE STINGER

Mr. DECONCINI. Mr. President, the previous sale of Stinger missiles to Saudi Arabia contained tight security measures that were conditional to the sale. We cannot guarantee that such safety measures can or even will be taken by the rebels fighting in Angola or Afghanistan. There is no need to give these freedom fighters the best that our military has to offer without full faith and knowledge that these missiles will be stored under the same conditions outlined for Saudi Arabia. I wish to reiterate what has been stated in the past: "Not a single airplane or airport in the civilized world will be safe if these weapons fall into the wrong hands."

Today, we are assaulted by a terrible war. Not a war of conventional means, however, but a subversive, insane war. A war that has no rules, no set battleground and no clear warriors. Terrorism, Mr. President, is a cancer—springing up in isolated incidences, killing without reason, direction or justice.

Recently, the United States has been under attack by this cowardly siege. A TWA airplane, flying over the Mediterranean, had a hole ripped through it in which four innocent victims plummeted to their death. All of these victims were Americans. One was a 4-month-old child. The bomb was allegedly planted by a known international terrorist who boarded in Cairo and debarked in Athens. This terrorist is associated with the Arab Revolutionary Brigades, which is linked with the Abu Nidal group, the group responsible for the Rome and Vienna airport bombings last December.

Recently, a bomb exploded in a Berlin discotheque killing 21-year-old Army sergeant Kenneth Terrance Ford and injuring 64 other GI's. There is no one in custody, but there is strong belief that Libyan leader Qadhafi is responsible for this brutal murder.

In addition to the terrorist threat, delivering the Stinger to Savimbi in Angola will escalate regional conflict and seriously impair United States efforts to negotiate a peaceful settlement between Angola, Namibia and South Africa. This will also increase the tension between the United States Government and the Soviet Union in the South African region and globally.

Providing these Stinger missiles to Mr. Savimbi raises many questions in this Senator's mind. He has claimed to have shot down commercial/civilian airliners on four occasions. The State Department verifies that at least twice he has successfully shot down Diamond Mine Co. commercial aircraft carrying employees.

The U.S. Department of State, in its publication "Patterns of Global Terrorism: 1984," described Savimbi's UNITA by stating that "* * * with increasing frequency in 1984 UNITA's tactics have verged on terrorism." In 1983 a UNITA spokesman claimed to have shot down a plane which carried 126 civilians. Do we want UNITA to have Stingers?

We have been slow reacting to terrorism in the past. I support the President's action to strike in preemptive fashion against Libya even though it certainly is not pleasant to have to do something like this. I have been critical of President Reagan and past Presidents when they have talked tough and not acted. I am glad that in this instance specific and strong action has been taken. This was a high risk response, but I see no alternative when faced with such a radical leader as Mr. Qadhafi.

Mr. Qadhafi, has virtually stated, "We have the right to fight America, and we have the right to export terrorism to them." From my training and experience as an attorney, statements such as this connected with the evidence in the Berlin disco and TWA bombing give the United States the right to use self-defense as justification for this action. The United Nations legally recognizes this right in article 51. Democracies have a right and duty to defend their citizens.

We also need to think long and hard about preventive actions before terrorists strike. The transfer of the Stinger missiles to rebel forces in Afghanistan and Angola is irresponsible and hasty. Having these weapons available in areas where we are unable to monitor them or ensure that regulations are adhered to appears to be inviting terrorist organizations to advance to a new level of terrorism. In 1985 we had 13 significant terrorist attacks involving U.S. citizens. It is difficult enough to combat these murders without the Stingers. The Stinger missile is the wild card in Colonel Qadhafi's deck of terrorist cards. In this volatile conflict with Libya we are virtually at war over terrorism. The "mad dog" of the Middle East does not need U.S. weapons to further escalate this battle.

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

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

Mr. WILSON. Mr. President, I ask unanimous consent that I may proceed for 5 minutes or a shorter period as if in morning business.

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

THE SOVIETS' SALT ADVANTAGE

Mr. WILSON. Mr. President, recently two of our colleagues, Senators QUAYLE and HOLLINGS, sent a Dear Colleague letter dated the 10th of April of this year, the subject of which was the SALT II agreement, and the decision as to whether or not we should continue to be bound or act as though we are bound by this agreement which was, of course, never ratified by the U.S. Senate.

Mr. President, one of the key arguments made by those who would have us continue to adhere to the SALT II limits is that without continued adherence, the Soviets would be free to build considerably more weapons than they now have. In an important Dear Colleague letter, I think that Senators QUAYLE and HOLLINGS have brought this argument before us, and challenged it in a way that deserves our attention.

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

U.S. SENATE,
Washington, DC, April 10, 1986.

DEAR COLLEAGUE: Despite the Soviets' continued violation of the limits contained in the unratified, expired SALT II agreement,

Congressional appeals are being made to have the President uphold these limits this May by dismantling two operational Poseidon submarines. The dismantling of these submarines clearly raises the question of whether or not continued adherence to SALT II is in our best interest even if the Soviets do choose to fully comply.

Ironically, the key argument made in favor of continuing adherence to SALT II is that without it, the Soviets would be free to build considerably more weapons than they now have. Yet, as the attached sheets demonstrate, even under SALT II limits—which apply primarily to missile launchers, not their specific payloads—the Soviets could add over 6,400 ballistic missile warheads to their arsenal within the next 6 to 7 years. At the same time, because planned U.S. strategic modernization emphasizes the deployment of missiles with fewer warheads than existing systems, SALT during the same period will require that the U.S. reduce its strategic arsenal by between 211 and 736 warheads.

Whether or not the Soviets would actually choose to make such additions, of course, is open to question given that they already have more than enough prompt warheads to destroy virtually all fixed U.S. targets of interest. Still, if we continue to adhere to SALT II, it will only codify our acceptance of a worsening and already destabilizing asymmetry. Certainly, if we are serious at all about arms control, we can do much better than build on this.

Sincerely,

DAN QUAYLE,
ERNEST F. HOLLINGS,
U.S. Senators.

SOVIET ICBM RV INCREASES POSSIBLE UNDER SALT I AND II

[Next 6 to 7 years]

Missile	Carrying	Will replace	Missile	Carrying	For a net increase in the number of prompt warheads of
SS-24	[1] 10	150	SS-17's	[1] 4	900
SS-26 (follow-on to SS-24)	[1] 10	360	SS-19's	[1] 6	1,440
SS-25 [2]	([3])	500+	SS-11's	[1] 1	[5] 0 to 1,000
SS-27 [2] (follow-on to SS-18)S	([4])	308	SS-18's	[1] 10 to 12	616 to 1,232
Total					+2,956 to 4,072

[1] Warheads each.
[2] The size and payloads of these two missiles is a matter of dispute.
[3] With a potential to carry three warheads each.
[4] At least 14 warheads each.
[5] Potential.

SOVIET SLBM RV INCREASES POSSIBLE UNDER SALT I AND II LIMITS

[Next 6 to 7 years]

Missile	Carrying	Will replace	Missile	Carrying	For a net RV increase
SS-N-23	[1] 8 to 9	80	SS-N-6's & SS-N-17's	[1]	560 to 640
SS-N-23	[1] 8 to 9	240	SS-N-18's	[1] 3 to 7	480 to 1,200
Total					+1,040 to 1,840

[1] Warheads each.

U.S. SLBM RV REDUCTIONS REQUIRED UNDER SALT I AND II LIMITS

[Next 6 to 7 years]

Missile	Carrying	Will replace	Missile	Carrying	Net decrease in RV's
C-4	[1] 8	168	C-3	[1] 10	−336

[1] Warheads each.

[One Trident/year replaces 1.5 Poseidon/year]

U.S. POSEIDON OR MM III RV REDUCTIONS REQUIRED UNDER SALT I & II

(Next 6 to 7 years)

To compensate for the 75 ALCM bombers U.S. will deploy over 120 allowed under SALT II. (Each over 120 requires party to dismantle a MIRV'ed launcher [1]). 75 Poseidon equals −750 RV's; 75 MM III's equals −225 RV's.

Actual decrease likely to be between these 2 numbers.

U.S. RV INCREASES LIKELY UNDER SALT I & II LIMITS

(Next 6 to 7 years)

50 MX (500 RV's)—50 MM III (150 RV's) equals +350. If we deploy 50.

SICBM will have no impact on RV count since it will replace MM II's (450 of them) 1 for 1 several years into late 1990's.

(Tables reflect adjustments to correct SS-25 and SS-N-23 tabulation errors made in the original charts).

Mr. WILSON. I thank the Chair.

I yield the floor.

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. PRESSLER. 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.

VISIT TO THE SENATE BY MEMBERS OF THE BRITISH PARLIAMENT

Mr. PRESSLER. Mr. President, I wish to notify the Senate that a very distinguished group representing the Conservative Backbench Tourism Committee of the British Parliament is visiting the Senate at this moment, for the benefit of those Senators who may be listening. I have explained to my colleagues from Great Britain that many of my Senate colleagues are in committee meetings this Thursday afternoon preparing legislation that may come to the floor this evening.

We are indeed honored to have these distinguished guests with us today. They are here on a mission to look into the tourism questions, as well as foreign relations questions, that exist between our two nations. They are guests of mine, the Senate, and the Secretary of the Senate, Jo-Anne Coe. I am proud to note that one of the Members of Parliament, Simon Coombs, is the Secretary's son-in-law. They are meeting with Members of the House and Senate and the executive branch in an effort to promote tourism between our two countries.

I believe it is particularly appropriate at this time to extend our thanks to our guests, to their Prime Minister, and their Government, for the support that Great Britain has given to the United States on the current Libyan problem.

Mr. President, I would like to say that we are pleased that the chairman of the British Conservative Backbench Tourism Committee, David Gilroy Bevan, who represents Birmingham Yardley, is here and has spoken to a luncheon earlier, which was attended by Senator DOLE, Congressman BADHAM, and many leaders of the tourism industry in the United States.

I would like to take this opportunity to introduce the other members of the committee as well. John Butterfill, a Member of Parliament, is representing Bournemouth West, the vice chairman; Conal Gregory, a Member of Parliament representing York, is the joint vice chairman; Roger Gale representing Thanet North, a Member of Parliament, is the secretary; Roger King, a Member of Parliament representing Birmingham Northfield, is the joint secretary; Richard Alexander is a Member of Parliament representing Newark; Simon Coombs is a Member of Parliament representing Swindon, who has a special relation with our Secretary; and David Lightbown is a Member of Parliament representing Staffordshire.

Mr. President, the current situation with terrorism and tourism is something that has interested all of us. As chairman of the Business, Trade, and Tourism Subcommittee of the Senate Commerce, Science, and Transportation Committee, I have taken a particular interest. It has been said that the current round of terrorism may well result in less Americans traveling to Europe. I do not know if that is true, but I do think that we should all work together to end terrorism, and to carefully analyze our current situation because the shoe could be on the other foot in the future.

I think it is very appropriate that we are listening to our friends and colleagues, recognizing that problems with safe travel have not existed for the most part in Great Britain and, indeed, as I am quick to point out, that Great Britain has been the only country that has stood with us in our current difficult situation with Libya.

Mr. President, I am very proud to present these Members to the U.S. Senate.

[1] 99 ALCM bombers now deployed; 195 will be deployed by 1992.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

SCHEDULE

Mr. DOLE. Mr. President, I have had some inquiries from both sides on what we may do the remainder of the day.

One matter we thought we had before the Senate at this moment, the Bankruptcy Court Judges Act, has been delayed because of some area of dispute that we hope can be worked out and the bill taken up later.

I do believe that we will be able to complete action this afternoon on S. 1236, technical amendments to the crime bill. It is a matter that has been worked out on both sides. I have been advised that it took about 30 days to do that, so we hope we can dispose of that matter at 4 o'clock.

The Senator from North Carolina (Mr. HELMS) wants to propose an amendment to that bill, and it is now in the process of being circulated. It is called the antidial-a-porn amendment. In effect, it would prohibit that service being offered particularly to young people, who apparently dial a number and get a lot of garbage on the telephone. If that amendment can be offered to S. 1236, it is my hope that the Senator from North Carolina will let us proceed to the bill and perhaps bring up his proposal now or at a later time as a freestanding measure.

It is also my hope that this afternoon we can lay before the Senate a message from the House on S. 49, the gun control bill. I see no reason why we cannot dispose of that this afternoon. It is a major piece of legislation that passed the House with an overwhelming majority. It is my intention to do that.

I am also contemplating the drug export bill. There may be some difficulty in proceeding to that bill. I hope not. It came out of the committee, I think, with only two dissenting votes, one of those being a proxy. It is a matter of some importance, and I hope we can complete action on that bill this afternoon, though I doubt that is going to happen. If not, it is possible that we will move to proceed to the drug export bill within a day or so, file a cloture motion and have a cloture vote next week.

On Monday, also, we believe we can get a time agreement on the nomination of Donald M. Newman to be Under Secretary of the Department of Health and Human Services. There is some opposition to the nomination, but I hope we can work out a time agreement which may result in a vote, perhaps not a rollcall, on Monday.

So we have a number of items we can probably take care of today.

I alert my colleagues that if we do complete action on S. 1236 very quickly after 4—I urge those who are responsible for that proposal to be here at 4; we should have done this at 1, and it is now 10 after 3—then we would ask the Chair to lay before the Senate a message from the House on S. 49, the gun control bill, unless there is some reason not to do that. I hope we can dispose of that this afternoon and anything else that Members on either side would like to bring before the Senate.

There will be no rollcall votes tomorrow. It is possible that there will not be a session tomorrow, but I will be able to announce that later.

As to Monday, I am not yet prepared to indicate whether or not there will be rollcall votes; but, in any event, there will be no rollcall votes after 6 o'clock on Monday.

RECESS UNTIL 4 P.M.

Mr. DOLE. Mr. President, I have consulted indirectly with the distinguished minority leader, Senator BYRD. Since there are a number of conferences going on and since some of the Members who have these various bills will not be available until 4 o'clock, I move that the Senate stand in recess until 4 p.m.

The motion was agreed to, and at 3:12 p.m., the Senate recessed until 4 p.m.

Whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. EVANS).

Mr. EXON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

MARINE SECURITY GUARD LETTER ON TERRORISM

Mr. DOLE. Mr. President, this morning, I announced I would join Senator DENTON in introducing a bill clarifying the President's authority and strengthening his hand in dealing with international terrorism, and I have already inserted that statement in the RECORD.

Quite by coincidence, when I returned to my office from the floor, I found on top of my mail a letter written to me by one of the U.S. marine security guards at our Embassy in Luxembourg.

The young man who wrote me, Sgt. Paul Duquette, a native of Lowell, MA, has a very personal connection to the terrorism problem. He was on duty at our Embassy in Beirut the first time it was attacked. He's also served in Damascus, Syria. And, of course, he remains very much on the firing line in his current duty station in Europe, protecting our personnel and facilities. This gives Sergeant Duquette credentials that almost none of the rest of us can match to comment on this issue.

Let me just quote one part of his letter:

> Like all marines I take pride in my duty serving my country but it isn't getting any easier. I feel that Congress hasn't been moving quickly enough on this problem area. Please let me know if I'm right or wrong. Please get Congress moving in the right direction.

Mr. President, Sergeant Duquette has the right—he has earned that right in Beirut and elsewhere—to make this request. In moving quickly and affirmatively to enact the bill I introduce today, we can help fulfill our responsibility to Sergeant Duquette, and to all his military and civilian colleagues, serving our country faithfully and courageously around the world.

Mr. President, I ask unanimous consent that the full text of Sergeant Duquette's letter be printed in the RECORD.

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

EMBASSY OF THE
UNITED STATES OF AMERICA,
Luxembourg, April 11, 1986.

S. Sgt. PAUL A. DUQUETTE, USMC,
American Embassy, Luxembourg,
APO New York, NY 09132

To Hon. ROBERT J. DOLE:

DEAR SENATOR DOLE: I am writing you this letter in regard to the overwhelming number of terrorist attacks against our nation and its people, at home and abroad. In the last twelve months alone terrorist attacks against our beautiful country and its citizens have caused a lot (to many) of deaths and hardships for our country and it doesn't seem to be getting any better. I am in the military and serve in the world's finest fighting force, "The Marines". Although I am from Lowell, MA, I am writing you because you are the Majority Leader of the Senate, and one of the jobs of any leader is to influence his men to do the right thing and work together as a team. I have been in the Marines for five years now and have spent most of my time serving my country overseas. I was a victim of a terrorist attack, at which our Embassy in Beirut was blown up (first time). Needless to say we are all victims when something like this happens.

My last two duty assignments were in Beirut, Lebanon and Damascus, Syria guarding our Embassies against these barbaric acts. I am currently serving in Luxembourg now and like all Marines I take pride in my duty "serving my country" but it isn't getting any easier. To tell you the truth, just open a newspaper or turn on the radio.

The time is now to concentrate all our efforts to combat this problem (threat). I applaud the President (and so should everyone else) for putting the 6th fleet into action against a commonly known terrorist. But, I feel that Congress hasn't been moving quickly enough on this problem area, please let me know if I'm right or wrong. Please get Congress moving in the right direction.

In closing, I hope to hear from you in the near future informing me on what Congress is doing to assist in fighting terrorism. I would also like to take this time and personally "thank you" for the support you have given the military. All of us in the military especially the Marines appreciate it, and hope you continue to support us in every way possible.

Thank you for your time, a Marine "on duty."

S. Sgt. PAUL A. DUQUETTE, USMC,
American Embassy, Luxembourg.

SCHEDULE

Mr. CHILES. Mr. President, I wonder if the majority leader will yield?

Mr. DOLE. I am happy to yield the floor.

Mr. CHILES. I was going to ask him if he could tell us something about our schedule tomorrow. I am hoping we will get a chance to maybe take up the budget tomorrow or lay it down and start on that.

Mr. DOLE. There is a remote possibility, I say to my friend from Florida.

We had a meeting scheduled at noon tomorrow with the Speaker, myself, Congressman MICHEL, Senator DOMENICI, Senator HATFIELD, and Congressman LOTT. But I understand that Congressman MICHEL may not be available tomorrow.

I would hope to have had that meeting before making a final judgment, seeing if the House would cooperate, I guess may be the right words, so we could both commence work on the budget. They have not, as the Senator knows, marked up their bill yet.

But I would assume if the budget is laid down tomorrow it would be debate only. I would not think you would want to get into the amendment process. I have already indicated there would be no votes on tomorrow. But I am not trying to be evasive. I am just not certain whether it will happen tomorrow but it is going to happen quite soon.

I know the Senator from Florida really wants to get at it. So does my good friend from New Mexico, Senator DOMENICI, and, of course, as the chairman and ranking Democrat on the Budget Committee, he has a lot of time invested, a lot of work, and I am not trying to frustrate those good intentions.

Mr. CHILES. We understand that maybe if it is not total unanimity in the product that we produced so far that it may take us a little time on the floor. So, obviously, if we could lay it down tomorrow, even if there could not be any votes on amendments or anything, we would be starting the process and then I think Members would well know that that would be something that we would be dealing with next week.

Mr. DOLE. Right, and it would be my intention once we are on it we are on it, unless something happened and we got bogged down. I am not the expert on rules, as is my colleague, the Senator from West Virginia, Senator BYRD, but I understand the only way to get off would be either to recommit the budget or to move to some other privileged matter. As soon as we finish that we would be back on the budget, so I am trying to—I do not disagree with the Senator from Florida. I guess that is my point.

Mr. CHILES. Does the Senator know when we might have some reading as to whether we could start on it tomorrow or not?

Mr. DOLE. I guess it is fair to say I have a meeting at 4:30 p.m. with the Office of Management and Budget Director, Mr. Miller, and a bit later than that, with Mr. Miller, Mr. DOMENICI, and Mr. GRAMM. There seems to be a split on our side. It may not have been observed yet by the Senator from Florida.

Mr. CHILES. I have not observed it.

Mr. DOLE. But I think there is a split here. There are about 25 one way and 25 the other way and three are undecided. So we are working on it.

Mr. CHILES. Then would the majority leader think that maybe after those meetings we might have some word as to whether we could lay it down tomorrow?

Mr. DOLE. That is correct.

Mr. CHILES. I urge again the majority leader to try to get started on it tomorrow. I think it is very important that we lay it down.

MATERIALS PROCESSING IN SPACE—THE PROMISE AND THE CHALLENGE

Mr. HEFLIN. Mr. President, routine access to space creates great opportunity for the development and manufacture of materials of types and purities heretofore unavailable. Advanced high speed computers, lifesaving drugs, environment cleaning catalysts, new metals and glasses, and much more, are literally just beyond the horizon. This, largely, is made possible through the almost total escape from the Earth's gravitational forces into what is known as a microgravity environment. Here, warm air does not rise and liquids freeze uniformly instead of first from the surface. A constant and nearly perfect vacuum is readily available.

The potential of manufacturing materials in space is immense. Just as the rockets and spacecraft of the 1960's led to the multibillion-dollar telecommunications industry of today, manned space laboratories promise to engender an equally rewarding revolution in materials processing. The development of new materials in space will lead to an era of technological leadership for the Nation which opens this frontier. In fact, international competition has already begun. The United States, Japan, European nations and the Soviet Union have begun vigorous pursuit of these rewards. The challenge is there and we must meet it.

In pursuing this challenge there are several factors which must be examined including potential products, elements of the competition and the need.

POTENTIAL PRODUCTS

A. SEMICONDUCTORS

Semiconductor materials have been at the very heart of the many products which have driven the current technological revolution. They are used for computing and data processing applications, for telecommunications, for sensor materials for military and medical usage, and for a wide variety of other electronic applications. In fact, millions of new careers have resulted from our ability to produce better and better semiconductor materials for communications and data processing components. And many now believe that we are approaching a second revolution in information processing through the utilization of light rather than electrons to communicate and store data.

The ability of semiconductors to process and store this information is dependent on the quality of the crystals from which the semiconductors are made. Large, uniform crystals free of contaminates provide the best materials for electronic and optical use.

Although materials scientists have succeeded in producing very high quality silicon for current applications, the gravitational effect known as thermal convection has limited their ability to produce more advanced materials capable of faster switching over a wider temperature range and which allow optical rather than electronic processing. The microgravity environment of space with its absence of thermal convection is expected to effectively eliminate previous uncontrolled variations in crystals made from such advanced semiconductor materials as gallium arsenide, indium antimony and mercury caldium telluride. In turn, these tremendous improvements in crystal quality should lead to revolutionary new applications in advanced computers, optical microcircuits and in sensors capable of responding to a very broad spectrum of light, ranging from microwaves and heat to x-rays and gamma rays.

B. PHARMACEUTICALS

Pharmaceuticals already are being developed commercially in space. In

the last decade, biomedical researchers have uncovered a myriad of hormones, enzymes, and other substances which have had beneficial effects on people.

Because of sedimentation and buoyancy, both effects of Earth's gravity, many of these potentially lifesaving chemicals cannot be purified or produced in quantities allowing their routine use in the treatment of common illnesses. Other pharmaceuticals are totally impossible to formulate on Earth. However, all can become available in the microgravity of space laboratories.

Among the medical problems for which space-produced pharmaceuticals hold promise are cancer, diabetes, anemia, dwarfism, and hemophilia. Additionally, current research indicates the possibility of producing drugs which may reduce the need for blood transfusions during surgery.

C. NEW GLASSES

Escape from Earth's gravity also eliminates the need to process materials within a container. This freedom allows production of glasses that cannot be duplicated on Earth where materials first freeze at the points of contact with the walls of the vessels in which they are contained. Also, most glasses are cooled from a very molten state which readily dissolves the materials from which glass crucibles are made. This introduces impurities which compromise the clarity and uniformity of the glass produced.

Containerless processing in microgravity laboratories will allow purer, more uniform glasses of new materials. This should lead to new applications for optical fiber materials which need fewer repeated stations. These could be used, for example, for new laser host materials.

D. NEW METAL ALLOYS.

Microgravity processing of metals will enable metallurgists to develop new alloys and establish reference standards against which to apply Earth-based research and development. This may lead to new forms of lightweight structures for aircraft and rockets, to new high strength cast iron and steel, to new superconducting magnetic alloys and, indeed, to new understanding of fundamental metal properties.

Manufacturers of such traditional products as automobiles and farm implements already are conducting space-based research into new alloys

E. AND MORE

Additional products for which new applications are being investigated include uniform calibration standards, molecular sieves and new nylon-like polymers. The first commercial cell of a space-based material was of monodisperse latex spheres which are used as a calibration standard for filters.

Molecular sieves produced under microgravity conditions promise to open new applications of gas separations, membranes for medical uses and purification of environmental pollutants and radioactive waste. Ultra high strength nylon fibers produced in microgravity are now being investigated by American industry.

THE COMPETITORS

Materials processing in space is being vigorously pursued by many nations. The nation which opens this new frontier will be the leader of a new technological era. Those nations already active in this area are:

A. UNITED STATES

The United States performed a few simple experiments during the Skylab Program in 1973-74 and in the Apollo-Soyuz Text Program in 1975. This was followed by a long period of relative inactivity restricted to tests on a few very brief sounding rocket flights.

For the United States, the development of materials processing in space did not reach an appreciable level of activity until the introduction of the space shuttle in 1981. Since then, microgravity processing experiments have been carried aboard shuttle orbitors in almost every flight.

Several dozen American companies now have taken steps to secure a role in microgravity materials processing. Those which have invested their own resources to develop commercial opportunities in space range from some of the Nation's largest corporations to small entrepreneurs. They include industries involved in chemicals, metals, communications, aerospace and automotive products, farm machinery, and pharmaceuticals. Within the last year, a total of 24 companies and 12 universities have established 4 consortia to perform joint research in microgravity processing.

B. SOVIET UNION

The Russians flew their first microgravity processing experiment in 1975 during the Apollo-Soyuz Test Program. They then embarked on a long-range experimental development program aboard the SALYUT manned space stations, and have had materials processing equipment in space continuously since 1978.

In contrast to the American program of sporadic, independent experiments, the Soviets have demonstrated a remarkable capacity for performing extended, directed research. It has been estimated that the Russians, in total, have performed more than 1,600 materials processing experiments in the SALYUT space stations with international cosmonaut crews which have included East Germans, Poles, Hungarians, Cubans, Czechs, and Vietnamese.

Most of the Soviet Union's attention appears to have been directed at three semiconductor materials; gallium arsenide, indium antimonide and mercury cadmium telluride. Semiconductors using these materials are extremely valuable for military systems. They can be used for high speed computing and the development of radiation resistant signal processors and infrared sensors used for military applications. Any advantage that the Soviets gain in the ability to produce semiconductors of these high quality materials would readily translate to a strategic advantage in developing high speed, radiation resistant, high quality radars, sensors and missile guidance and navigation systems. The Soviets claim to have already manufactured and used for medical purposes infrared sensor devices which were made with mercury cadmium teluride produced aboard SALYUT.

In 1983 the Russians incorporated into the SALYUT system an unmanned re-entry module which can return up to 500 kilograms (1,100 pounds) of materials to Earth between crew visits to the station. Earlier this year, the Soviets stated that they will assemble and orbit large production complexes with semiconductor-materials production facilities, research laboratories and hothouses.

C. EUROPE AND JAPAN

The Europeans and Japanese are expected to fly repeated missions aboard the space shuttle. The Europeans have already carried out a number of materials processing experiments in the space shuttle's spacelab, operated by American and European scientists. West Germany flew a spacelab mission in 1985 which focused on microgravity processing. The crew included two scientists from West Germany and one from Holland.

Recently, West German companies have established a new consortium, named IntoSpace, chartered to market its space processing opportunities to European industry, particularly those currently not involved in aerospace activities. The Japanese are scheduled to fly a spacelab mission in 1988, focusing their attention on microgravity processing.

There seems little doubt as to the seriousness with which our allies—and others—intend to compete in this new commercial arena made possible by routine access to space.

THE NEED

Materials processing work will continue aboard the space shuttle once shuttle flights are restored. However, the shuttle will be flying only about once a month, and even then, it is in orbit for only about a week at a time. This is hardly long enough to perform the needed detailed development program. The key need is the permanently orbiting, manned space station now planned by NASA.

The space station will contain a laboratory for microgravity processing with the capability to perform the whole range of materials development necessary, from basic research

through process development, technology advancement, commercial process prototyping, and commercial production of materials. Once in orbit in the 1990's, the space station will provide American science and industry the opportunity to gain and maintain a position of technological leadership in the applications of advanced materials into the 21st century. This leadership will be manifested in new forms of lifesaving drugs, in advanced computers, fluid processes, and in a new understanding of metals and glasses. It will lead to prosperity and to military strength and security.

Mr. President, just as the development of orbital satellites has led to new jobs and economic growth in the telecommunications industry and as improved processing of silicon materials has led to great gains in the computer industry, advanced materials processing in space will bring about economic growth, security and improved medical care to our generation and those to follow.

Thank you, Mr. President.

AUBURN SESQUICENTENNIAL ANNIVERSARY

Mr. HEFLIN. Mr. President, I am pleased to rise today to congratulate the citizens of Auburn, AL on their sesquicentennial anniversary. On the weekend of April 25, 1986, they will join together to celebrate their 150th anniversary with parades, dances, athletic events, and community gatherings. I am certain that it will be a weekend to remember.

Although the city was founded in 1836, settlers from Georgia actually colonized the town site between 1833 and 1835. They came with their families to build homes after having heard favorable accounts about the area from a Reverend Morgan Terertine, who was a missionary to the Indians. Indeed, that part of Alabama was still Indian country, and after a long journey on the night of their arrival, these brave new Alabamians were attacked by Indians who still inhabited the area. However, the settlers were stubborn in the face of adversity. With true Alabama spirit, great resolve, and determination, they worked together to transform this harsh wilderness into a flourishing town, a civilized community.

In 1836 it seems that the town leaders faced a dilemma of a different sort from the Indian attacks and the ravages of the frontier. In just a short period of time their town had prospered to the point that the settlers decided to find a name with which to grace this special place where they had made their homes. Yet, a consensus could not be reached—the perfect name could not be found. Finally, Tom Harper, the son of town father Judge Harper, returned to Georgia for supplies. There, his future bride, Miss Lizzie Taylor, a schoolgirl, had been reading Goldsmith's "Deserted Village." When she heard that the town needed a name, she promptly exclaimed, "Name it Auburn, Sweet Auburn, loveliest village of the plain!" It was, and has been, indeed, the perfect name for this wonderful city. It embodies the beautiful countryside, the handsome surroundings, the graceful homes and hospitality of its people that adorn the town.

Since its origins, the city of Auburn has always been closely linked with education. The town leaders had placed great emphasis on religion, education, and culture when settling their new town. The first school was built in 1838, and Simeon Yancey was recruited as the first instructor. In 1856, Auburn had two fine schools, William F. Slaton's Male Academy, and the Auburn Masonic Female College. By this time, Auburn was a bustling town, a cultural and social center for eastern Alabama and western Georgia as well as a commercial center. It was said that, "The social life of Auburn in those days was as fine as could be found in the whole land." One of three railroads in operation in Alabama passed through it, and there were numerous business and cultural advantages. The citizens took an active part in the arts and in political debates. It was the ideal environment for an institute of higher learning. After great efforts, Auburn town leaders were finally successful in their attempt to attract a college for their sons. On February 1, 1856, the legislature of Alabama passed an act incorporating the East Alabama Male College. Thus, the town of Auburn was inextricably linked with higher education. Without the founding of this small school Auburn University would not exist today, for in February 1872, this small college became the Agricultural and Mechanical College of Alabama, the precursor of Auburn University, the school we now treasure.

One cannot examine the accomplishments of the citizens of Auburn without also considering the contributions of Auburn University. Through the years, each has benefited the other in their great work together. The interests of town and college have been mutual. These joint efforts have benefited the State of Alabama and the people of this Nation as well as those in the city and the institution. The shared triumphs of the city and the university are of a greater magnitude than any singular advances could hope to be. Thus, greater goals are accomplished in this unique spirit of the Auburn community where citizens and school officials work together. Past achievements are indicative of the great aid that Auburn University has already provided to mankind. Advances in agriculture have helped farmers to increase crop yields. Veterinary research has helped both commercial livestock owners and small children who own pets. Furthermore, research into space power and laser technology helps to prepare America for the future. The strong commitment that Auburn town leaders made to education in 1838 has certainly paid off. These great accomplishments in education and technology have resulted in an improvement in the condition of life for countless Alabamians and Americans. I must stress that these gains would not be possible without the joint interaction and shared effort that exists in Auburn between the city and the university. Without the unique spirit of this great community we would all be at a loss.

For 150 years, Auburn has been devoted to the enrichment, and fulfillment of human life and society by encouraging culture, education, and religous worship. This sesquicentennial anniversary it not merely a birthday celebration. Rather, it offers the citizens of Auburn an opportunity to look into their past and to realize all that they have accomplished. Those successes and rewards which are reaching fruition today were actually initiated by the many great citizens who labored in the past to make Auburn a better place. Now is the time to remember those whose efforts have culminated in all that Auburn has to offer.

Now, also, is the time to think of the future. The ch,ldren of today will be planning for Auburn's bicentennial in just 50 short years. The dreams of today will grow, take shape and mature in time to benefit them. In the years to come, I am certain that Auburn will make even greater advances—that it will offer even more to its citizens, its State, and its country. I am delighted to congratulate Auburn on its sesquicentennial. I am very proud to represent the citizens of Auburn and am pleased to serve them in every way I can. Thank you Mr. President.

THE CRIME BILL

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

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

ORDER OF PROCEDURE

Mr. HELMS. Mr. President, I wonder if I could inquire of the distinguished majority leader and the distin-

guished chairman of the Judiciary Committee about what the plans are with respect to the crime bill.

Mr. DOLE. It would be my hope, if the Senator would yield, that we could take up S. 1236 and again I will indicate that it is a matter that I am not fully versed on, but I understand the committee has worked for about, they were telling me earlier, 30 days on a lot of very technical amendments—they are not major amendments, but they are technical amendments—to the major crime package we passed here about a year or two ago. The Justice Department is very anxious to have these amendments. They think they are necessary.

I happen to agree with the Senator from North Carolina that there is a good amendment floating around; it is called anti-Dial-a-Porn, and I support the Senator in that.

I have just discussed this matter with the chairman of the Constitution Subcommittee who also indicates his support. It is our hope that we can satisfy the Senator from North Carolina so it will not be necessary for him to offer the amendment to this bill.

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

Mr. HELMS. I yield to the Senator.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, we are ready to go forward with these amendments to the omnibus crime bill, entitled Minor and Technical Amendments to the Comprehensive Crime Control Act of 1984. These are very important amendments. We have been working on them now for several months. The Justice Department is insisting we rush them, if at all possible, because it could affect some cases they are trying.

The able Senator from North Carolina spoke to us about a pornography amendment, which I favor and have no objection to it being added to this bill. But the distinguished Senator from Ohio [Mr. METZENBAUM,] indicated he will oppose it. The able Senator from North Carolina has talked with him and I have talked with him and he has told me, in the last 20 minutes, that he is opposed to these amendments and that he will filibuster them, if necessary. And he says there are others who will filibuster them.

In view of that, I hope that the distinguished Senator from North Carolina would not insist on offering them at this time. He has a bill in the Judiciary Committee now on which a hearing has been held in the Criminal Law Subcommittee. It is back to the full committee and it is ready to go on the agenda. I can assure him it will go on the agenda and will be reached as soon as we can get to it.

In view of that, I hope that he would be kind enough not to offer the amendment at this time.

Mr. HELMS. Mr. President, I thank the distinguished Senator from South Carolina. I assure him and the distinguished majority leader that it is not my intent to hold up the passage of the pending bill or the bill which will shortly be pending.

I am just mystified that any Senator would oppose doing away with the scourge in this country called Dial-a-Porn. I may be naive—I have been around this place about 14 years now—but this is one amendment which I felt that all Senators would welcome, because it will be recommended by the Commission on Pornography. It is sorely needed to put an end to children all over America using the long distance telephone service of their parents to dial a number—a 1-900 number; I understand many of the machines are in New York—for a fee. And, bear in mind, Mr. President, that the people—the entrepreneurs, if you want to call them that; that is too nice a word for me to use for them—but the people who are doing this dirty business are making millions out of it at 50 cents a clip off of parents whose telephone bills are charged with calls to New York City and elsewhere to listen to, as I understand it, 4 to 5 minutes of garbage, sewer talk.

I am perfectly willing not to offer the amendment to this legislation provided I can have some assurance from the distinguished chairman of the Judiciary Committee and the distinguished majority leader. As I understand it, I say to Senator THURMOND, he has said that, inasmuch as the bill has been the subject of a hearing by the Subcommittee of the Judiciary, the Criminal Law Subcommittee, it is now subject to be put on the agenda.

Mr. THURMOND. It is ready to be put on the agenda of the full committee, and it will be placed on that agenda and we will reach it in due time.

Mr. HELMS. Well, of course, nobody knows what "due time" is around this place, if you have a Senator who is going to filibuster, because it is possible to filibuster in committee, as well as on the floor.

Mr. THURMOND. If there are filibusters in the committee, I will get back in touch with the Senator. And if there is a filibuster and there is no way to get it out, then the Senator can place it on the calendar over here.

Mr. HELMS. I think I am going to do that, in any case.

I would ask the distinguished majority leader, If Senator THURMOND encounters a filibuster in his committee reporting the bill which would abolish "Dial-a-Porn," could I have the assurance of the majority leader that he would endeavor to call up the bill from the calendar?

Mr. DOLE. Yes; I can give the distinguished Senator that assurance. I do not understand why anybody would object to it, unless it be some big corporation that may be profiting from the telephone calls. I cannot believe anybody else would have any problem with a bill of that kind.

Mr. HELMS. With that assurance, I say to my friends, the distinguished majority leader and the distinguished chairman of the Judiciary Committee, I will withhold offering the amendment which, as I said earlier, I had anticipated that the entire Senate would be willing to approve forthwith on a voice vote. Because, if anything is clear in this world, it is that we have to stop stuff like this.

I thank the distinguished majority leader and I thank the distinguished chairman of the Judiciary Committee.

Mr. DOLE. Mr. President, first let me thank the distinguished Senator from North Carolina and the chairman of the Judiciary Committee, Senator THURMOND from South Carolina. It would be my hope that there would not be an effort to tie this bill up in the committee. But, if so, as I have indicated, we will try to work it out some other way.

I think additional hearings before the Subcommittee on the Constitution in the Judiciary Committee would be very helpful and if there are any problems they could be resolved.

Mr. THURMOND. Mr. President, hearings have already been held in the Criminal Law Subcommittee and it is now ready to be put on the agenda of the full committee. If the distinguished Senator from North Carolina wants to go to another subcommittee for another hearing, I have no objection, but that would just take more time.

Mr. HELMS. That is correct. I do not believe further hearings are needed.

Mr. DOLE. Yes, that would take more time.

Mr. President, I understand the distinguished minority leader would like to be present. We are ready to proceed.

REPORT TO THE SENATE CONCERNING THE STRIKE IN LIBYA

Mr. DOLE. Mr. President, while we are waiting for the distinguished minority leader, I would like to include in the RECORD at this point a letter addressed to the distinguished President pro tempore, Senator THURMOND, from the President, dated April 16, 1986. This letter is a report to the Senate concerning the strike in Libya.

Mr. THURMOND. Mr. President, I already put that in last night.

Mr. DOLE. Mr. President, I am advised by the distinguished President pro tempore it has been included in the RECORD, so I will not ask it be included again.

But I would state that the President has indicated in this letter, which is in the RECORD, that it does meet the requirements and is a precise summary of the events to date in Libya.

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 4:45 p.m. with statements limited to 5 minutes each.

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

DIAL-A-PORN AMENDMENT

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, while we have a few moments, if the distinguished minority leader will bear with me, let me discuss very briefly the amendment that I would have proposed to the crime bill. We call it the Dial-a-Porn amendment, and the purpose of it is to eliminate completely the "Dial-a-Porn" operations by repealing a few words in section 223(b) of the Communications Act of 1934. The amendment adds no substantive language of any kind to current law. It—purely and simply—removes a gaping loophole in existing law.

Mr. President, American parents have enough to contend with in 1986 without having to worry about whether their children will be able to pick up the phone, dial a number, and then hear an obscene recorded message. Yet since Congress first addressed the problem of dial-a-porn in December 1983, the dial-a-porn industry has flourished, and our children in particular and American society in general have been the losers.

The loophole in existing law is that it affirmatively authorizes dial-a-porn for consenting adults. Thus, dial-a-porn operators are given a green light to go into business, and then the practical problem arises—and it arises in thousands of cases every day—as to how to keep children from calling the dial-a-porn numbers. That practical problem, Mr. President, has proven to be totally insoluble. Moreover, there is no good reason for Congress to authorize our interstate telephone system to be used for the communication of pornographic messages—even to adults, for that matter. These are recorded messages. These are not conversations. These are recorded filth.

Mr. President, the prohibitions currently in place under section 223(b) of the Communications Act of 1934 are sufficient to shut down the dial-a-porn industry, if we simply eliminate the loophole. The loophole has two parts.

The first part of the loophole is that portion of section 223(b)(1)(A) which makes dial-a-porn criminal only if it goes to a person under 18 years of age or to a person who has not consented to receiving the message. My amendment eliminates this crippling qualification to the prohibition against dial-a-porn. Thus, the prohibition against dial-a-porn would apply to everyone—not just minors and nonconsenting adults, as is currently the case.

The second part of the loophole is all of section 223(b)(2) which provides: "It is a defense to a prosecution under this section that the defendant restricted access to the prohibited communication to persons 18 years of age or older in accordance with procedures which the Commission (the FCC) shall prescribe by regulation." My amendment—which I would have offered to this legislation I contend is the most appropriate vehicle for this—would remove this complete, affirmative defense to prosecution under section 223(b), and it would make the current penalties for dial-a-porn under section 223(b) meaningful for the first time.

Mr. President, I have heard from parents all over this country about this matter. Many constituents have contacted me time and time again on this problem of dial-a-porn. Most recently, I received a letter from the father of a 9-year-old boy. This is typical of what I am hearing. The father sent me a copy of his telephone bill and underlined three long distance calls to a "900" number. "While questioning my son about these calls," the father wrote, "I discovered that the long distance calls were placed to a service which provides sexually explicit messages. Apparently, some older children told my son that this number was the number of 'Teddy Ruxpin,' the talking teddy bear. The joke was not very funny when one considers the fact that the morals of young children are being corrupted in the process."

Mr. President, the need for this legislation, I believe, is completely evident in this father's letter. We, in Congress, owe the parents of America better than what they now have to contend with on this matter of dial-a-porn.

I urge that we move as quickly as possible and Senator THURMOND and Senator DOLE have assured me that they will cooperate fully. Therefore, I do not intend to offer the amendment.

I yield the floor. I thank the majority leader.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

COMPREHENSIVE CRIME CONTROL ACT AMENDMENTS

Mr. THURMOND. I would like to inquire of the distinguished Democratic leader if he has cleared Calendar 596, S. 1236, minor and technical amendments to the crime bill.

Mr. BYRD. Yes.

Mr. THURMOND. Senator BIDEN had a statement in favor of it, and Senator METZENBAUM does not oppose it. I have heard of no opposition on the part of anyone.

Mr. BYRD. It is my understanding that there will only be two amendments offered to the measure, and those two amendments will be offered by the distinguished Senator from South Carolina, Mr. THURMOND.

Mr. THURMOND. Mr. President, that is correct.

Mr. BYRD. There is no objection on this side.

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senate now turn to Calendar 596, S. 1236, minor and technical amendments to the crime bill.

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

The clerk will report.

The assistant legislative clerk read as follows:

A bill, (S. 1236), to amend title 18 of the United States Code and other laws to make minor or technical amendments to provisions enacted by the Comprehensive Crime Control Act of 1984, and for other purposes.

The Senate proceeded to consider the bill (S. 1236) to amend title 18 of the United States Code and other laws to make minor or technical amendments to provisions enacted by the Comprehensive Crime Control Act of 1984, and for other purposes, which had been reported from the Committee on the Judiciary, with an amendment to strike out all after the enacting clause, and insert the following:

BAIL (CHAPTER I)

SECTION 1. (a) Subparagraph (D) of section 3142(f)(1) of title 18 of the United States Code is amended by—

(1) striking out the words "any felony committed after the person had been convicted of two or more prior offenses" and inserting in lieu thereof "any felony if the person has been convicted of two or more offenses"; and

(2) inserting before the semicolon ", or a combination of such offenses".

(b) Subparagraph (A) of section 3142(f)(2) of title 18 of the United States Code is amended by inserting the word "or" after the semicolon.

(c) Subsection (f) of section 3142 of title 18 of the United States Code is amended by adding at the end thereof the following: "The hearing may be reopened, before or after a determination by the judicial officer, at any time prior to trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.".

OTHER SENTENCING AMENDMENTS

SEC. 2. (a) Section 4216 of title 18 of the United States Code is repealed.

(b) The item relating to section 4216 in the sectional analysis of chapter 311 of title 18 of the United States Code is amended to read as follows:

"4216. Repealed."

SEC. 3. Section 992 of title 28 of the United States Code is amended—

(1) in subsection (c) by striking out "section 225(a)(1)(B)(ii) of the Sentencing Reform Act of 1983" and inserting in lieu thereof "section 235(a)(1)(B)(ii) of the Sentencing Reform Act of 1984"; and

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

"(d) The provisions of sections 44(c) and 134(b) of this title, regarding the residence of judges, shall not apply to any judge holding a full-time position on the Commission pursuant to subsection (c) of this section.".

SEC. 4. Section 994 of title 28 of the United States Code is amended—

(1) in subsection (a)(2)(C) by making it read as follows:

"(C) the sentence modification provisions set forth in sections 3563(c), 3564, 3573, 3582(c), and 3583(e) of title 18;";

(2) in subsection (a)(3) by making it read as follows:

"(3) guidelines or general policy statements regarding the appropriate use of the provisions for revocation of probation and supervised release set forth in sections 3565 and 3583(e) of title 18, and the provisions for modification of the term or conditions of probation and supervised release set forth in sections 3563(c), 3564, and 3583(e) of title 18.";

(3) in subsection (b) by inserting before the period in the second sentence ", except that if the maximum of the range is life imprisonment, the minimum shall not be less than thirty-years' imprisonment";

(4) in subsection (h) by striking out "by section 3581(b) of title 18, United States Code,"; and

(5) in subsection (t) by inserting the words "in what circumstances and" after the word "specify" and by deleting the words "that are outside the applicable guideline ranges".

SEC. 5. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended—

(1) in subsection (b) of section 3552 of title 18 of the United States Code by striking out the word "take" in the third sentence and inserting in lieu thereof the word "be";

(2) in subsection (b) of section 3552 of title 18 of the United States Code by inserting the words ", if the defendant is in custody," after the words "the United States Marshal shall" in the eighth sentence; and

(3) in subsection (c) of section 3552 of title 18 of the United States Code by striking out "4247" and inserting in lieu thereof "4244".

SEC. 6. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended—

(1) in subsection (a) section 3553 of title 18 of the United States Code by striking out the words "of this subsection" in the first sentence; and

(2) in subsection (b) of section 3553 of title 18 of the United States Code by adding the following sentence at the end thereof: "In the absence of an applicable sentencing guideline, the court shall impose an appropriate sentence, having due regard for its relationship to sentences prescribed by guidelines applicable to similar offenses and offenders and the purposes of sentencing set forth in subsection (a)(2).".

SEC. 7. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in subsection (c) of section 3553 of title 18 of the United States Code by inserting "or if it includes an order of only partial restitution," after "If the sentence does not include an order of restitution,".

SEC. 8. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in subsection (a) of section 3561 of title 18 of the United States Code by striking out the second sentence.

SEC. 9. Subsection (a) section 212 of the Comprehensive Crime Control Act of 1984 is amended in paragraph (11) of section 3563(b) of title 18 of the United States Code by striking out "in section 3581(b)".

SEC. 10. (a) Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in subsection (c) of section 3563 of title 18 of the United States Code by—

(1) striking out the phrase ", after a hearing,"; and

(2) inserting the phrase "the provisions of Rule 32.1 of the Federal Rules of Criminal Procedure and" after the words "pursuant to".

(b) Subdivision (b) of Rule 32.1 of the Federal Rules of Criminal Procedure is amended by—

(1) inserting the words "to be" after the word "relief"; and

(2) striking out the period at the end and inserting in lieu thereof ", and the attorney for the government, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected.".

SEC. 11. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in subsection (b) of section 3564 of title 18 of the United States Code by striking out the second sentence and inserting in lieu thereof the following: "A term of probation runs concurrently with any Federal, State, or local term of probation, supervised release, or parole for another offense to which the defendant is subject or becomes subject during the term of probation. A term of probation does not run while the defendant is imprisoned in connection with a conviction for a Federal, State, or local crime unless the imprisonment is for a period of less than thirty consecutive days.".

SEC. 12. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in subsection (f) of section 3603 of title 18 of the United States Code by striking out the word "supervise" and inserting in lieu thereof "assist in the supervision of," and by inserting a comma after the word "about".

SEC. 13. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in subsection (b) of section 3624 of title 18 of the United States Code by striking out "beginning after the first year of the term" in the first sentence and inserting in lieu thereof "beginning at the end of the first year of the term".

SEC. 14. Subsection (a) section 212 of the Comprehensive Crime Control Act of 1984 is amended in subsection (e) of section 3624 of title 18 of the United States Code by striking out the third sentence and inserting in lieu thereof the following: "The term runs concurrently with any Federal, State, or local term of probation, supervised release, or parole for another offense to which the person is subject or becomes subject during the term of supervised release. A term of supervised release does not run while the person is imprisoned in connection with a conviction for a Federal, State, or local crime unless the imprisonment is for a period of less than thirty consecutive days.".

SEC. 15. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in section 3663 (formerly section 3579) of title 18 of the United States Code by—

(1) striking out "or in lieu of" in subsection (a)(1); and

(2) striking out "sections 3812 and 3813" in subsection (h) and inserting in lieu thereof "sections 3612 and 3613".

SEC. 16. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in section 3672 (formerly section 3656) of title 18 of the United States Code by adding at the end thereof:

"He shall have the authority to contract with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). This authority shall include, but not be limited to, providing equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence and his susceptibility to addiction. He may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"He shall pay for presentence studies and reports by qualified consultants and presentence examinations and reports by psychiatric or psychological examiners ordered by the court under section 3552 (b) or (c) except for studies conducted by the Bureau of Prisons.".

SEC. 17. Section 214 of the Comprehensive Crime Control Act of 1984 is amended—

(1) in subsection (a) of section 5037 of title 18 of the United States Code by striking out "(e)" and inserting in lieu thereof "(d)";

(2) in subparagraph (B) of section 5037(c)(1) of title 18 of the United States Code by striking out "by section 3581(b)";

(3) in subparagraph (B) of section 5037(c)(2) of title 18 of the United States Code by striking out "by section 3581(b)"; and

(4) in subsection (c) of section 5037 of title 18 of the United States Code by adding the following new paragraph at the end thereof:

"The provisions of section 3624 are applicable to an order placing a juvenile under detention.".

SEC. 18. Section 215(a)(5) of the Comprehensive Crime Control Act of 1984 is amended in subdivision (c)(2)(B) of Rule 32 of the Fedeal Rules of Criminal Procedure by striking out the word "than" and inserting in lieu thereof the word "from".

SEC. 19. Section 215(f) of the Comprehensive Crime Control Act of 1984 is amended in Rule 6 of the Federal Rules of Criminal Procedure by—

(1) striking out the word "or" in subdivision (e)(3)(C)(ii); and

(2) striking out the period at the end of subdivision (e)(3)(C)(iii) and inserting in lieu thereof "; or".

SEC. 20. (a) Subsection (a) of section 224 of the Comprehensive Crime Control Act of 1984 is amended—

(1) in paragraph (1) to read, "in subsection (b)(1)(A), by deleting the sentence which begins 'Any sentence imposing a term of imprisonment under this paragraph';";

(2) in paragraph (2) to read, "in subsection (b)(1)(B), by deleting the sentence which begins 'Any sentence imposing a term of imprisonment under this paragraph';";

(3) by inserting the following new paragraph after paragraph (2):

"(3) in subsection (b)(1)(C), by deleting the sentence which begins 'Any sentence imposing a term of imprisonment under this paragraph';";

(4) by adding the word "and" at the end of paragraph (4);

(5) by deleting paragraph (5); and

(6) by redesignating paragraphs (3) and (4) as (4) and (5), respectively.

(b) Section 224 of the Comprehensive Crime Control Act of 1984 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following:

"(c) Section 405A (21 U.S.C. 845A) is amended—

"(1) in subsection (a) by deleting '(1)' after the word 'punishable', and by deleting the semicolon and all that follows and inserting in lieu thereof a period;

"(2) in subsection (b) by deleting '(1)' after the word 'punishable', and by deleting 'and (2) at least three times any special parole term' and all that follows and by inserting in lieu thereof a period; and

"(3) in subsection (c) by deleting the second sentence.".

SEC. 21. Subsection (a) of section 225 of the Comprehensive Crime Control Act of 1984 is amended—

(1) in paragraph (1) to read, "in subsection (b)(1), by deleting the sentence which begins 'If a sentence under this paragraph provides for imprisonment';";

(2) in paragraph (2) to read, "in subsection (b)(2), by deleting the sentence which begins 'If a sentence under this paragraph provides for imprisonment';";

(3) by redesignating paragraph (3) as (4); and

(4) by inserting the following new paragraph after paragraph (2):

"(3) in subsection (b)(3), by deleting the sentence which begins 'If a sentence under this paragraph provides for imprisonment'; and".

SEC. 22. Subsection (a) of section 232 of the Comprehensive Crime Control Act of 1984 is amended by—

(1) striking out the word "and" the second time it appears and inserting in lieu thereof a comma; and

(2) inserting before the period ", and 'and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966' ".

SEC. 23. (a) Section 235(a)(1)(B)(i) of the Comprehensive Crime Control Act of 1984 is amended by striking out "eighteen" and inserting "thirty" in lieu thereof.

(b) TECHNICAL AMENDMENT.—Section 235(a)(1)(B)(i) of the Comprehensive Crime Control Act of 1984 is amended by striking out "to section" and inserting "under section" in lieu thereof.

(c) Section 994(q) of title 28, United States Code, is amended by striking out "within three years" and all that follows through "Act of 1983" and inserting in lieu thereof "not later than one year after the initial set of sentencing guidelines promulgated under subsection (a) goes into effect."

(d) Section 235(a)(1) of the Comprehensive Crime Control Act of 1984 is amended by striking out "twenty-four" and inserting "thirty-six" in lieu thereof.

FORFEITURE (CHAPTERS III AND XXIII)

SEC. 24. Section 1963 of title 18 of the United States Code is amended—

(1) in subsection (c) by striking out "(m)" and inserting in lieu thereof "(l)";

(2) in subsection (j) by striking out "(m)" and inserting in lieu thereof "(l)"; and

(3) by redesignating subsections (e), (f), (g), (h), (i), (j), (k), (l), and (m), as subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l), respectively.

SEC. 25. Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended in the sentence beginning "Upon the filing", by striking out "$2,500" and inserting in lieu thereof "$5,000".

SEC. 26. (a) Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616(c)) as enacted by Public Law 98-573 is amended by inserting "any other Federal agency or to" after "property forfeited under this Act to".

(b) Section 616 of the Tariff Act of 1930 (19 U.S.C. 1616) as enacted by Public Law 98-473 is repealed.

SEC. 27. Section 413 of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853) is amended—

(1) in subsection (c) by striking out "(o)" and inserting in lieu thereof "(n)";

(2) in subsection (f) by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)"; and

(3) in subsection (k) by striking out "(o)" and inserting in lieu thereof "(n)".

SEC. 28. (a) Subsection (b) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(b)) is amended—

(1) by striking out "or criminal" after "Any property subject to civil";

(2) in paragraph (4) by striking out "or criminal" after "is subject to civil"; and

(3) by adding the following at the end thereof:

"The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.".

(b) Subsection (i) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(i)) is amended by inserting ", or a violation of State or local law that could have been charged under this title or title III," after "title III".

SEC. 29. (a) Subparagraph (E) of section 524(c)(1) of title 28 of the United States Code is amended by inserting "the Federal Bureau of Investigation, the United States Marshals Service," after the words "for official use by", and by inserting a comma before the word "or".

(b) Paragraph (4) of section 524(c) of title 28 of the United States Code is amended by striking out "remaining after the payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof ", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))".

OFFENDERS WITH MENTAL DISEASE OR DEFECT

(CHAPTER IV)

SEC. 30. Subdivision (c) of Rule 12.2 of the Federal Rules of Criminal Procedure is amended by inserting "4241 or" before "4242".

DRUG ENFORCEMENT AMENDMENTS

(CHAPTER V)

SEC. 31. Paragraph (14) of section 102 of the Controlled Substances Act (21 U.S.C. 802(14)) is amended in the second and third sentences by striking out the word "the" after the words "the term 'isomer' means" and inserting in lieu thereof "any".

SEC. 32. Paragraph (4) of subsection (a) of schedule II of the Controlled Substances Act (21 U.S.C. 812) is amended to read as follows:

"(4) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the substances referred to in this paragraph.".

SEC. 33. (a) Subparagraph (A) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in clause (i) to read as follows:

"(i) 100 grams or more of a mixture or substance containing a detectable amount of a narcotic drug in schedule I or II other than a narcotic drug consisting of—

"(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(IV) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);";

(2) in clause (ii) by adding "a mixture or substance containing a detectable amount of" after "a kilogram or more of";

(3) in clause (iii) by adding "a mixture or substance containing a detectable amount of" after "500 grams or more of";

(4) in clause (iv) by adding "a mixture or substance containing a detectable amount of" after "5 grams or more of"; and

(5) by adding at the end thereof, "Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 8 years in addition to such term of imprisonment.".

(b) Paragraph (5) of section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) is amended by adding the words "the fines provided in" after the word "Notwithstanding".

SEC. 34. Subsection (b) of section 405A of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended by inserting "parole" after "(2) at least three times any special".

SEC. 35. Section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) is amended by—

(1) striking out "and" at the end of paragraph (5);

(2) striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following:

"(7) notwithstanding any other provision of law, enter into contractual agreements with State and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this Act.".

SEC. 36. Section 508 of the Controlled Substances Act (21 U.S.C. 878) is amended by—

(1) inserting "(a)" before "Any officer or employee";

(2) inserting after "Drug Enforcement Administration" the following: "or any State or local law enforcement officer"; and

(3) adding at the end thereof the following new subsection:

"(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5, United States Code.".

SEC. 37. (a) Paragraph (1) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended—

(1) in subparagraph (A) by striking out clauses (i), (ii), and (iii) and inserting in lieu thereof the following:

"(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(ii) cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);";

(2) in subparagraph (B) by inserting "a mixture or substance containing a detectable amount of" after "a kilogram or more of";

(3) in subparagraph (C) by inserting "a mixture or substance containing a detectable amount of" after "500 grams or more of";

(4) in subparagraph (D) by inserting "a mixture or substance containing a detectable amount of" after "5 grams or more of"; and

(5) by adding at the end thereof, "If a sentence under this paragraph provides for imprisonment, the sentence shall include a special parole term of not less than four years in addition to such term of imprisonment.".

(b) Paragraph (3) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(3)) is amended by striking out ", except as provided in paragraph (4)".

LABOR RACKETEERING AMENDMENT (CHAPTER VIII)

SEC. 38. Paragraph (2) of section 411(a) of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111(a)(2)) is amended by striking out "entity" and inserting in lieu thereof "person".

CURRENCY AND FOREIGN TRANSACTIONS REPORTING ACT AMENDMENTS (CHAPTER IX)

SEC. 39. Paragraph (2) of section 5316(a) of title 31 of the United States Code is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

MISCELLANEOUS VIOLENT CRIME AMENDMENTS (CHAPTER X)

SEC. 40. Subsection (a) of section 373 of title 18 of the United States Code is amended by—

(1) inserting after the words "the person or property of another" the words ", or against such person's own property,"; and

(2) inserting before the word "death" the words "life imprisonment or".

SEC. 41. Subsection (c) of section 924 of title 18 of the United States Code is amended by—

(1) adding after the words "during and in relation to any" the words "felony described in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (21 U.S.C. 955a) or any";

(2) adding after the words "in addition to the punishment provided for such" the words "felony or"; and

(3) adding after the words "term of imprisonment including that imposed for the" the words "felony or".

SEC. 42. Subsection (a) of section 929 of title 18 of the United States Code is amended by—

(1) adding after the words "during and in relation to the commission of a" the words "felony described in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (21 U.S.C. 855a), or a";

(2) adding after the words "in addition to the punishment provided for the commission of such" the words "felony or"; and

(3) adding after the words "term of imprisonment including that imposed for the felony" the words "or crime of violence".

SEC. 43. (a) Subsection (d) of section 1201 of title 18 of the United States Code is amended by adding the words "or (a)(5)" after the words "subsection (a)(4)".

(b) Paragraph (2) of section 115(b) of title 18 of the United States Code is amended to read as follows:

"(2) A kidnaping or attempted kidnaping in violation of this section shall be punished as provided in section 1201 of this title for the kidnaping or attempted kidnaping of a person described in section 1201(a)(5) of this title.".

SEC. 44.(a) Chapter 65 of title 18 of the United States Code is amended by redesignating section 1365 as enacted by Public Law 98-473 as section 1366.

(b) The analysis at the beginning of chapter 65 of title 18 of the United States Code is amended by striking out "1365" the second time it appears and inserting in lieu thereof "1366".

SERIOUS NONVIOLENT OFFENSES (CHAPTER XI)

SEC. 45. Section 215 of title 18 of the United States Code is amended—

(1) in subsections (a) and (b) by inserting the words ", bank holding company, or savings and loan holding company" after the words "financial institution" the second and third place in which they appear;

(2) in subsection (c)(1)(D) by striking out "Administrator of the"; and

(3) in subsection (d) by inserting the words ", bank holding company, or savings and loan holding company" after the words "financial institution" each place in which they appear.

SEC. 46. Section 219 of title 18 of the United States Code is amended—

(1) in the first paragraph to read:

"Whoever, being a public official, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, shall be fined not more than $10,000 or imprisoned for not more than two years, or both."; and

(2) in the last paragraph by striking out "the Delegate from the District of Columbia" and inserting in lieu thereof "Delegate", and by striking out ", or a juror".

SEC. 47. (a) Chapter 25 of title 18 of the United States Code is amended by redesignating section 510 as enacted by Public Law 98-473 as section 513.

(b) The analysis at the beginning of chapter 25 of title 18 of the United States Code is amended by striking out "510. Securities of the State and private entities.", and by adding at the end thereof "513. Securities of the States and private entities.".

SEC. 48. (a) Sections 1791 and 1792 of title 18 of the United States Code are amended by striking out the phrase "Federal penal or correctional facility" each time it appears and inserting in lieu thereof "Federal penal, detention, or correctional facility".

(b) Section 1791 of title 18 of the United States Code is further amended—

(1) in subparagraph (a)(1)(B) by adding the words "ammunition or" before "any other weapon";

(2) in subparagraph (a)(1)(C) by adding before the semicolon the words ", lysergic acid diethylamide, or phencyclidine";

(3) in subparagraph (a)(1)(D) by striking out "other than a narcotic drug, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)" and inserting in lieu thereof "other than a controlled substance described in subparagraph (C)"; and

(4) by making subsection (c) read as follows:

"(c) DEFINITIONS.—As used in this section, 'ammunition', 'firearm', and 'destructive device' have the meaning given those terms, respectively, in section 921 of title 18 the United States Code.".

PROCEDURAL AMENDMENTS (CHAPTER XII)

SEC. 49. Subsection (e) of section 1028 of title 18 of the United States Code is amended by striking out "title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)" and inserting in lieu thereof "chapter 224 of this title".

SEC. 50. Subsection (f) of section 1029 of title 18 of the United States Code is amended by striking out "title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)" and inserting in lieu thereof "chapter 224 of this title".

SEC. 51. Section 3076 of title 18 of the United States Code is amended by striking out "title V of the Organized Crime Control Act of 1970" and inserting in lieu thereof "chapter 224 of this title".

SEC. 52. Section 3522 of title 18 of the United States Code is amended—

(1) in subsection (a) by striking out the word "parolees" in the second sentence and inserting in lieu thereof "probationers or parolees, as the case may be";

(2) in subsection (b)—

(A) by striking out "subsection (a)" and inserting in lieu thereof "probation or parole"; and

(B) by striking out the word "shall" and inserting in lieu thereof "may";

(3) by striking out subsection (c); and

(4) by redesignating subsection (d) as subsection (c).

SEC. 53. Section 1921 of title 28 of the United States Code is amended by adding the following new paragraph at the end thereof:

"Notwithstanding the provisions of section 3302 of title 31, the United States Marshals Service is authorized, to the extent provided in appropriations acts, to credit to its appropriation account all fees, commissions, and expenses collected for—

"(1) the service of civil process, including complaints, summonses, subpenas, and similar process; and

"(2) seizures, levies, and sales associated with judicial orders of execution,

by the United States Marshals Service and to use such credited amounts for the purpose of carrying out such activities.".

VICTIM COMPENSATION AND ASSISTANCE (CHAPTER XIV)

SEC. 54. Section 3013 of title 18 of the United States Code is amended by adding the following new subsection at the end thereof:

"(c) No assessment shall be imposed on any person convicted of an offense for which local rules of the district court, or other Federal law, establishes that collateral may be posted in lieu of appearance in court.".

SEC. 55. Subsection (a) of section 3671 of title 18 of the United States Code, as enacted by section 1406(a) of the Comprehensive Crime Control Act of 1984, is amended by striking out "chapter 227 or 231 of" after the words "an order of restitution under".

SEC. 56. (a) Sections 3671 and 3672 of title 18 of the United States Code, as enacted by section 1406(a) of the Comprehensive Crime Control Act of 1984, are redesignated as sections 3681 and 3682, respectively.

(b) The sectional analysis of chapter 232 of title 18 of the United States Code, as added by section 1406(a) of the Comprehensive Crime Control Act of 1984, is amended by striking out "3671" and "3672" and inserting in lieu thereof "3681" and "3682", respectively.

SEC. 57. (a) Chapter 232 of title 18 of the United States Code, as enacted by section 1406(a) of the Comprehensive Crime Control Act of 1984, is redesignated as chapter 232A.

(b) The chapter analysis of part II of title 18 of the United States Code is amended by striking out the item relating to chapter 232, as added by section 1406(b) of the Comprehensive Crime Control Act of 1984, and inserting in lieu thereof the following:

"232A. Special forfeiture of collateral profits of crime 3681".

SEC. 58. Subsection (e) of section 1402 of the Comprehensive Crime Control Act of 1984 is amended by—

(1) striking out "the next succeeding fiscal year" and inserting in lieu thereof "the next two succeeding fiscal years"; and

(2) striking out "year" after "at the end of which".

SEC. 59. Section 1407 of the Comprehensive Crime Control Act of 1984 is amended—

(1) in subsection (h) by striking out "1302" and inserting in lieu thereof "1402"; and

(2) by redesignating subsection (h) as subsection (g).

SEC. 60. Chapter XIV of the Comprehensive Crime Control Act of 1984 is amended by striking out section 1410.

TRADEMARK COUNTERFEITING

(CHAPTER XV)

SEC. 61. (a) Chapter 113 of the title 18 of the United States Code is amended by redesignating section 2320 as enacted by Public Law 98-473 as section 2321.

(b) The analysis at the beginning of chapter 113 of title 18 of the United States Code is amended by striking out

"2320. Trafficking in counterfeit goods or services."

and by adding at the end thereof

"2321. Trafficking in counterfeit goods or services.".

ACCESS DEVICES AND COMPUTER

(CHAPTER XXI)

SEC. 62. (a) Section 1030 of title 18 of the United States Code is amended by adding the following new paragraph at the end thereof:

"(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.".

(b) Delete paragraph (3) of subsection (a) of section 1030 of title 18 of the United States Code.

(c) Delete "or" after the semicolon at the end of paragraph (2) of subsection (a) of section 1030 of title 18 of the United States Code, and insert "or" after the semicolon at the end of paragraph (1) of subsection (a) of section 1030 of title 18 of the United States Code.

MISCELLANEOUS AMENDMENTS

SEC. 63. Section 3 of title 18 of the United States Code is amended by inserting before the word "death" the words 'life imprisonment or".

SEC. 64. (a) Chapter 1 of title 18 of the United States Code is amended by adding a new section 17 as follows:

"§ 17. Organization defined

"For purposes of this title, the term 'organization' means a person other than an individual.".

(b) The sectional analysis for chapter 1 of title 18 of the United States Code is amended by adding after the item relating to section 16 the following:

"17. Organization defined.".

SEC. 65. Subsection (a) of section 201 of title 18 of the United States Code is amended by striking out "the Delegate from the District of Columbia" and inserting in lieu thereof "Delegate".

SEC. 66. Paragraph (1) of section 203(a) of title 18 of the United States Code is amended by striking out "Delegate from the District of Columbia, Delegate Elect from the District of Columbia" and inserting in lieu thereof "Delegate, Delegate Elect".

SEC. 67. Subsection (h) of section 844 of title 18 of the United States Code is amended to read as follows:

"(h) Whoever uses fire or an explosive to commit, or carries an explosive during the commission of, any felony which may be prosecuted in a court of the United States, including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device, shall, in addition to the punishment provided for such felony, be sentenced to imprisonment for five years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for ten years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the felony in which the fire or explosive was used or the explosive was carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. 68. Section 1961(a) of title 18 of the United States Code is amended by adding, after the words "section 1511 (relating to the obstruction of State or local law enforcement)," the words "section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant),".

SEC. 69. The first and second paragraphs of section 2315 of title 18 of the United States Code are amended by—

(1) inserting "possesses," after "receives,"; and

(2) striking out "moving as, or which are a part of, or which constitute interstate or foreign commerce," and inserting in lieu thereof "which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken,".

SEC. 70. Subsection (m) of section 223 of the Comprehensive Crime Control Act of 1984 is amended in paragraph (3)(B) to read as follows:

"(B) by amending subsection (b) to read as follows:

" '(b) An offender transferred to the United States to serve a sentence of imprisonment that is longer than the maximum period of time specified in the applicable sentencing guideline promulgated pursuant to section 994(a)(1) of title 28, United States Code, as determined by the Bureau of Prisons, shall serve in an official detention facility the maximum period of time specified in the applicable sentencing guideline and shall serve the remainder of the term imposed as a term of supervised release. To the extent permitted by the applicable treaty, a determination by the Bureau of Prisons as to whether the transferred offender shall serve a term of supervised release and the length of such term to be served may be appealed to the United States court of appeals for the district in which the offender is imprisoned after transfer to the United States, and the court of appeals shall decide and dispose of the appeal in accordance with section 3742 as though the determination appealed had been imposed by the United States district court. A determination by the Bureau of Prisons shall be made only after affording the transferred offender an opportunity (1) to submit evidence or information as the applicable sentencing guideline, and (2) for an appeal within the Bureau of Prisons of such detemination by a reviewing authority established by the Director pursuant to regulations.'; and".

SEC. 71. Section 3142(c)(2)(J) of title 18 of the United States Code is amended by inserting ", psychological," after "medical".

SEC. 72. Paragraphs (3) of subsections (d), (g), and (h) of section 922 of title 18 of the United States Code are amended by deleting the words "marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954)" and inserting in lieu thereof the words "marihuana or any depressant or stimulant substance or narcotic drug (as those terms are defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802)".

SEC. 73. Section 875 of title 18 of the United States Code is amended by striking the phrase "transmits in interstate commerce" each place where it appears and inserting in lieu thereof the words, "transmits in interstate or foreign commerce".

SEC. 74. Section 351 of title 18 of the United States Code is amended—

(a) in subsection (a) by adding after "Deputy Director of Central Intelligence," the words "a major candidate for the office of President or Vice-President, as defined in subsection (a)(7) of section 3056 of this title", and

(b) in subsection (h) by deleting the words "an official" and inserting in lieu thereof "a person".

Mr. THURMOND. Mr. President, today, I rise in support of S. 1236—a bill that would make minor and technical corrections to the Comprehensive Crime Control Act of 1984.

As most of you are aware, the Comprehensive Crime Control Act of 1984 embodied the most significant series of changes in the Federal criminal justice system ever enacted at one time. I was

pleased to have been able to lead the effort, along with several of my distinguished colleagues, in securing passage of that legislation in the 98th Congress. The act was passed during the final weeks of the 98th Congress under demanding time constraints, and inevitably some ambiguities and technical defects found their way into the legislation.

On June 4, 1985, I introduced S. 1236, along with my colleagues Senator BIDEN, ranking minority member of the Judiciary Committee, Senator LAXALT, and Senator KENNEDY to correct those defects. This bill was referred to the Judiciary Committee, of which I am chairman. S. 1236, as originally introduced, included 85 provisions covering all areas of the Federal criminal law. To expedite consideration of this legislation, the committee formulated a compromise containing those sections of S. 1236 which the members of the Judiciary Committee unanimously supported and it was offered as an amendment in the nature of a substitute.

The committee unanimously approved this substitute at its executive committee meeting on December 12, 1985, and it was reported on April 4, 1986 (S. Rep. 99-278).

AMENDMENT NO. 1794

(Purpose: To clarify certain fine and sentencing guideline provisions)

Mr. THURMOND. Mr. President, I now send an amendment to the desk on behalf of myself, Senator BIDEN, Senator LAXALT, Senator KENNEDY, Senator HATCH, Senator GRASSLEY, Senator SPECTER, and Senator EAST, to the committee substitute, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND], for himself, and Mr. BIDEN, Mr. LAXALT, Mr. KENNEDY, Mr. HATCH, Mr. GRASSLEY, Mr. SPECTER, and Mr. EAST, proposes an amendment numbered 1794.

Mr. THURMOND. 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 61, strike out lines 22 through 3 on page 62 and insert in lieu thereof the following:

(1) in subsection (a)(2) by—

(A) redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) amending subparagraph (C) to read as follows:

"(C) the sentence modification provisions set forth in sections 3563(c), 3564, 3573, 3582(c), and 3583(e) of title 18;"; and

(C) adding after subparagraph (C) the following new subparagraph:

"(D) the fine imposition provision set forth in section 3572 of title 18;";

On page 62, strike out lines 13 through 16 and insert in lieu thereof the following:

(3) in subsection (b) by—

(A) inserting "(1)" after "(b)"; and

(B) designating the second sentence as paragraph (2) and inserting before the period in such paragraph (2) the following: "except that—

"(A) if the maximum term of the range is life imprisonment, the minimum shall not be less than 25 years imprisonment; or

"(B) it the maximum term of the range is one year or less, the maximum shall not exceed the minimum of that range by more than 50 per centum or 60 days, whichever is greater.";

On page 68, between lines 4 and 5, insert the following:

SEC. 16A. Section 213 of the Comprehensive Crime Control Act of 1984 is amended in section 3742 of title 18, United States Code—

(1) in subsections (a)(2), (b)(2), (d)(2), and (e)(1) by striking out "an incorrect" and inserting in lieu thereof "a clearly erroneous construction or"; and

(2) in subsection (e) by—

(A) striking out subparagraph (B) of paragraph (1) and inserting in lieu thereof the following:

"(B) designate the appropriate guideline category and remand the case for imposition of a sentence consistent with its decision;"; and

(B) striking out subparagraphs (A) and (B) of paragraph (2) and inserting in lieu thereof the following:

"(A) if it determines that the sentence is too high and the appeal has been filed under subsection (a), it shall set aside the sentence and remand the case for imposition of a sentence consistent with its decision;

"(B) if it determines that the sentence is too low and the appeal has been filed under subsection (b), it shall set aside the sentence and remand the case for imposition of a sentence consistent with its decision; or".

Mr. THURMOND. Mr. President, today I am offering an amendment to S. 1236 to make several changes in the sentencing provisions of the Comprehensive Crime Control Act of 1984.

I am pleased to be joined in offering this legislation by several of my distinguished colleagues on the Judiciary Committee—Senator BIDEN of Delaware, ranking minority member, as well as Senators LAXALT, KENNEDY, HATCH, GRASSLEY, SPECTER, and EAST.

This amendment would make changes with regard to the duties of the U.S. Sentencing Commission and the appellate review of sentences imposed by district courts.

First, the Commission's authority would be expanded to authorize it to promulgate policy statements regarding the imposition of fines in accordance with the applicable provision of Title 18 of the United States Code. This change would be consistent with the Commission's present authority to issue policy statements with regard to matters such as the application of sentencing guidelines, the sanctions of forfeiture, and plea agreements. In addition, this change would enhance the usefulness of the Commission's work to the Federal judicial system.

Second, the amendment modifies the requirement for sentencing guidelines that provides for ranges in the term of imprisonment. Currently, the maximum of the range may not exceed the minimum of that range by more than 25 percent. S. 1236, as reported by the committee, provides that when the maximum of the range is life imprisonment, the minimum of that range would be 30 years. This amendment would change that number to 25 years and would also provide that when the maximum term of the range is 1 year or less, the maximum shall not exceed the minimum of that range by more than 50 percent, or 60 days, whichever is greater. When the maximum term of the range is 1 year or less, a 25-percent variance would not allow the Commission sufficient flexibility to develop meaningful guidelines for relatively minor crimes. In this instance, the difference in the range would only amount to a small number of days which could possibly encourage defendants to stand trial rather than plead guilty. This change would enable the commission to draft meaningful, realistic guidelines with regard to the lower end of the imprisonment sentencing scale.

The amendment would also amend certain provisions pertaining to the appellate review of sentences. Currently, an appellate court may overturn a sentence if it determines that the sentence was imposed as a result of an "incorrect application" of the sentencing guidelines. This amendment would change the standard of review to require the court to determine that the sentence was the result of a "clearly erroneous construction" of the sentencing guidelines. This modified standard, unlike the current standard, is well defined in current law, more familiar to potential appellate litigants, and gives more appropriate weight to the sentencing decisions of Federal district court judges.

Finally, this amendment would modify the current law which permits the appellate court to resentence a defendant. The responsibility for sentencing and resentencing has traditionally been reserved for the district court in that the presence of the defendant gives the sentencing judge the opportunity to observe the demeanor and attitude of the defendant. As well, the presence of the victim, prosecutor, and defense attorney, and any other relevant witnesses gives the district court insight into the sentencing process that an appellate judge could not realize from a record alone. This bill would, therefore, require an appellate court that finds in favor of the defendant, to remand the case with appropriate instruction to the district court for further sentencing procedures.

Judge William W. Wilkins, Jr., Chairman of the U.S. Sentencing

Commission, has indicated that these changes are necessary in order to ensure the meaningful development and implementation of the sentencing guidelines which the Commission will submit to Congress by April 13, 1987, and the Department of Justice concurs. I urge my colleagues to support this legislation. This legislation needs to be enacted as soon as possible because some of the provisions relate directly to the drafting of the sentencing guidelines. I strongly urge my colleagues to accept this amendment by unanimous consent.

Mr. BIDEN. Mr. President, as an original cosponsor of the Comprehensive Crime Control Act that was passed in 1984, I join with Senators THURMOND, KENNEDY, and LAXALT in moving these technical corrections and minor amendments. I introduced these changes in the same bipartisan spirit that carried through our efforts last Congress to pass the most encompassing changes to our Federal Criminal Code in decades.

In the wee hours of the morning when the comprehensive crime control bill passed the Senate, all of us most actively involved recognized that minor and technical amendments would be needed in the future. As my colleagues may recall, the components of the comprehensive crime bill were expanded by 11 titles and in the limited time available before the end of the 98th Congress, drafting and conforming changes in the legislation were extremely difficult.

As with past legislation I have introduced by request with the chairman, it was recognized that careful review and scrutiny of these changes would need to be done in committee.

In considering this bill in committee, the approach taken was reflective of how we all worked together on passing the original crime bill. In that spirit, we agreed to set aside any section of this bill that any Senator believed was expansive in scope and more than technical. For that reason, 21 sections of the original bill were removed and will be the subject of future hearings.

In the spirit of the cooperation shown in moving the original crime bill in 1984, I ask my colleagues to support final passage of this bill.

Mr. THURMOND. Mr. President, I move 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. 1794) was agreed to.

AMENDMENT NO. 1795

(Purpose: To clarify the budget effect of the contract authority granted to the Director of Administrative Office of the United States Courts)

Mr. THURMOND. Mr. President, I now send to the desk another amendment to the committee substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes an amendment numbered 1795.

On page 67, line 8, after "contract" insert ", subject to appropriations,".

Mr. THURMOND. Mr. President, section 16 of S. 1236 would restore the authority of the Administrative Office of the U.S. courts to contract for the care of addicted or drug dependent offenders. Today, I am offering a technical amendment to this section which simply adds "subject to appropriation."

The Budget Committee advises us that this amendment is necessary in order to avoid a conflict with section 401 of the Congressional Budget Act of 1974.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1795) was agreed to.

Mr. METZENBAUM. Mr. President, would the chairman of the committee yield for a number of questions?

Mr. THURMOND. I would be pleased to yield.

Mr. METZENBAUM. S. 1236, as the Judiciary Committee reported it, does not include several changes proposed by the Department of Justice in S. 1236 as introduced. Now, it is my understanding the the committee intends to revisit these proposals. Its failure to adopt certain proposals should not necessarily be read as a rejection of those proposals. The committee simply has postponed consideration of them. Am I correct?

Mr. THURMOND. The Senator is correct.

Mr. METZENBAUM. As my colleague is aware, among the proposals not acted on was the proposal, in section 37 of S. 1236 as introduced, to amend section 235(b)(3) of the Sentencing Reform Act. Section 235(b)(3), as enacted addresses how the Parole Commission should deal with individuals who are slated to be in its jurisdiction 5 years after the new sentencing guidelines become effective. Section 235(b)(3) says the Commission must set release dates for each such person within the range of the applicable parole guideline.

The Sentencing Reform Act was intended to respond to the lack of predictability and the disparity of treatment that went with the parole system and the Parole Commission's decisionmaking. The Sentencing Reform Act limits the Commission's discretion before putting it out of business entirely.

As the statement accompanying the introduction of S. 1236 explained, section 37 was intended to let the Commission apply its guidelines with the discretion to go above or below them. Indeed, the explanation stated that under the current section 235(b)(3) "All release dates must be within the applicable guideline ranges" but this would not be the case if section 37 were adopted.

Is that the Senator's understanding of the proposed change?

Mr. THURMOND. Yes it is, however, I want to add that section 235(b)(3) as enacted provides an unjustified windfall to some of the most dangerous prisoners. The prisoners to whom this provision applies will be those who are serving the longest terms. This is the group most likely to have aggravating case factors warranting decisions above the applicable parole guideline range.

On the other hand, 235(b)(3) doesn't allow setting a release date below the guideline range in any circumstances.

Section 235(b), as enacted, establishes an absolute cut off of the administrative parole determination function. By contrast, under section 37 of S. 1236, as introduced, release dates and conditions of release are set by the Parole Commision and may be adjusted by the Bureau of Prisons after the demise of the Commission with the possibility that release could be ultimately set at an earlier date than the date set under section 235(b)(3), as enacted.

Mr. METZENBAUM. I disagree with your evaluation of this section. The Parole Commission guidelines already provide sufficient flexibility to address different degrees of seriousness in criminal offenses. The intent of this section is to reduce arbitrariness and inequities in setting release dates.

However, I do not want to imply that the committee has expressed a view on that proposal. I just want to be clear as to the issue the committee has decided to defer.

Under the Comprehensive Crime Control Act of 1984, the Parole Commission is required to set a "release date for an individual who will be in its jurisdiction the day before the expiration of 5 years after the effective date of this act that is within the range that applies to the prisoner under the applicable parole guidelines." This provision becomes effective on November 1, 1987. In addition, the Senate report accompanying the bill states that "the committee intends that, in the final setting of release dates under this provision, the Parole Commission give the prisoner the benefit of the applicable new sentencing guideline if it is lower than the minimum parole guideline."

Consequently, under current law, the Commission must stay within the guidelines for persons whose sentence extends beyond November 1, 1992, and who come before the Commission for a release date after the Sentencing Reform Act becomes effective on November 1, 1987. Consideration of amending this provision has been deferred.

Mr. THURMOND. Your statement of the committee's decision is correct.

Mr. METZENBAUM. I thank the chairman.

Mr. THURMOND. Mr. President, I now move adoption of the committee amendment in the nature of a substitute as amended.

The PRESIDING OFFICER. Without objection, the committee amendment in the nature of a substitute, as amended, is agreed to.

Mr. BUMPERS. Mr. President, I would like to commend the Judiciary Committee for reporting S. 1236, which would make several important technical amendments to provisions enacted by the Comprehensive Crime Control Act of 1984. The Judiciary Committee and the Justice Department have worked diligently to produce this legislation and as a strong supporter of the Comprehensive Crime Control Act, I am glad to support the amendments in S. 1236.

The Comprehensive Crime Control Act of 1984 was the product of long deliberation and effort by all three branches of Government, going back to the days when Senator John McClellan served as chairman of the Judiciary Committee. As finally passed, it included two tough provisions relating to bail reform and minimum mandatory sentencing for firearm crimes which I had sponsored in the Senate. In 1981, I introduced S. 494, which created a minimum 5-year sentence for the use of a firearm during the commission of a felonious Federal offense, to be imposed in addition to the penalty for the underlying felony. This bill increased the minimum penalty for first offenders from 2 to 5 years, and increased from 2 to 10 years the penalty for second and subsequent offenders. The bill also made such offenders ineligible for parole until that minimum sentence was served. It was a tough proposal. I am glad to say that language almost identical to S. 494 was included in the President's crime package 2 years later and eventually became part of Public Law 98-473, the Comprehensive Crime Control Act of 1984.

I also introduced in the Bail Reform Act Amendments of 1981, S. 482, which required judges making bail determinations to keep in jail until trial those persons who could not be released without endangering the safety of other citizens. Bail reform was long overdue. Reforms strikingly similar to mine were recommended in 1981 by Chief Justice Burger and were also included in the 1984 act, now codified in 18 U.S.C. 3142.

Last December, I wrote Attorney General Meese to inquire into the effectiveness and utilization of the bail and firearms provisions of the 1984 act. In his response, Assistant Attorney General Bolton explained that the Department of Justice believes the bail provisions are proving to be a very effective tool of Federal law enforcement and are already working to keep many dangerous defendants off the streets while awaiting trial. In regard to the firearms provisions, Assistant Attorney General Bolton told me that they would become an effective law enforcement tool. He said, however, that legislation was needed if the minimum mandatory penalty for firearms crimes was to be made applicable to felonies involving the sale and distribution of narcotics. A group of Federal court decisions handed down in 1985, ending with *United States* v. *Diaz*, No. 85-1276, slip op. (2d Cir. Nov. 21, 1985), has made it apparent that the courts will not rule that felonies involving the sale and distribution of narcotics are to be covered by this provision unless Congress amends it to include narcotics offenses. The court in Diaz pointed out that criminals involved in drug trafficking may often carry or use firearms during the commission of drug-related felonies, and the current language of the provision does not apply to that type of felony. Mr. President, I ask unanimous consent that the letter from the Attorney General's office be included in the RECORD.

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

U.S. DEPARTMENT OF JUSTICE,
Washington, DC, February 24, 1986.

Hon. DALE BUMPERS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BUMPERS: This letter is in response to your letter of December 20, 1985 to the Attorney General asking several questions about the utilization and efficaciousness of one of the bail provisions (18 U.S.C. § 3142), and one of the firearms provisions (18 U.S.C. § 924(c)) of the Comprehensive Crime Control Act of 1984. For the reasons stated below, the Department of Justice unequivocally believes that § 3142 and § 924(c) constitute sound public policy.

Since its enactment in October 1984, United States Attorneys have regularly utilized § 3142. As of January 10, 1986 Criminal Division statistics [1] show that 2,146 pretrial detention hearings have been held pursuant to § 3142. In 1,739 instances the courts ordered pretrial detention. In 1,303 of these instances the dangerousness of the defendant to others was an important consideration in the decision to order pretrial detention. These figures clearly indicate that § 3142 is regularly being utilized, and is proving to be an efficacious tool of federal criminal law enforcement. To the extent § 3142 denies pretrial release to those defendants who constitute a danger to others, the Department of Justice believes § 3142 will have a significant impact on criminal activity in that it will keep large numbers of judicially-determined dangerous defendants off the streets while they are awaiting trial on serious criminal charges.

With respect to § 924(c), it appears that United States Attorneys have been regularly utilizing this provision since its passage. While the Criminal Division has no statistics on the frequency of use of § 924(c), the Criminal Division has received numerous telephone calls from United States Attorneys seeking advice on whether to use § 924(c) in given fact situations. While it is too early to determine the efficacy of § 924(c), the Department of Justice has every reason to believe that § 924(c) will have a significant impact on criminal activity because it provides for longer periods of incarceration for those who use a firearm during the commission of a crime of violence. One problem that has arisen with respect to § 924(c) is that several district courts, and one court of appeals, have held that § 924(c) was not intended to apply to narcotics offenses. See *United States* v. *Diaz*, No. 85-1276, slip op. (2d Cir. Nov. 21, 1985). In Diaz the court of appeals stated that "narcotics offenses do not constitute crime of violence within the meaning of § 924(c). If felonies involving the sale and distribution of narcotics are to be deemed crimes of violence for the purpose of Section 924(c), we believe that this should be done by Congress amending the Comprehensive Crime Control Act of 1984." Id. at 367. The Department of Justice has asked the Congress to amend § 924(c) so as to make it applicable to the sale and distribution of narcotics.

We trust this reply addresses the concerns raised in your letter.

Sincerely,

JOHN R. BOLTON,
Assistant Attorney General, Office of Legislative and Intergovernmental Affairs.

[1] The Criminal Division's statistics on pretrial detention hearings and pretrial detention orders are derived from figures sent to the Criminal Division by United States Attorneys. A copy of the Criminal Division's compilation of these figures is attached.

PRETRIAL DETENTION HEARING REPORTS

[Cumulative fiscal year 1986 through January 10]

District	Initial motions		Results		Basis for rulings			Reviews (by government) results		Reviews (by defense) results	
	By gov't	Court	Granted	Denied	Flight	Dangerous	Both	Detained	Not detained	Released	Not released
Alabama, Northern	5	0	5	0	0	5	0	0	0	0	0
Alabama, Middle	0	0	0	0	0	0	0	0	0	0	0
Alabama, Southern	19	0	15	4	13	2	0	3	0	0	0
Alaska	2	0	2	0	0	0	2	0	0	0	0
Arizona											
Arkansas, Eastern	6	1	6	1	4	0	2	0	0	0	0
Arkansas, Western	1	0	1	0	0	0	1	0	0	0	0
California, Northern	51	0	33	18	19	4	10	0	0	1	1
California, Eastern											
California, Central	40	2	28	14	12	10	6	3	0	0	0
California, Southern	10	1	9	2	5	0	4	0	0	0	0
Colorado	5	1	4	2	1	0	3	0	0	0	0
Connecticut											
Deleware	5	1	6	0	2	2	2	0	0	1	1
District of Columbia											
Florida, Northern	12	0	10	2	1	1	8	0	0	1	1
Florida, Middle	20	0	17	3	5	1	11	0	0	0	0
Florida, Southern	6	0	2	4	1	0	1	0	0	0	0
Georgia, Northern	12	0	12	0	2	4	6	3	0	0	0
Georgia, Middle	0	0	0	0	0	0	0	0	0	0	0
Georgia, Southern	0	0	0	0	0	0	0	0			0
Guam											
Hawaii	8	0	7	1	2	0	5	0	0	0	1
Idaho	2	0	1	1	1	0	0	0	0	0	0
Illinois, Northern											
Illinois, Central	14	0	11	3	1	2	8	0	0	0	0
Illinois, Southern	5	0	4	1	2	1	1	0	0	0	0
Indiana, Northern	8	0	8	0	4	1	3	0	0	0	0
Indiana, Southern	5	0	4	1	0	1	3	0	0	0	0
Iowa, Northern	0	0	0	0	0	0	0	0	0	0	0
Iowa, Southern	1	0	1	0	1	0	0	0	0	0	0
Kansas	6	0	6	0	0	5	1	0	0	0	5
Kentucky, Eastern	2	0	1	1	0	0	1	0	0	0	0
Kentucky, Western	15	0	12	3	3	8	1	0	0	0	1
Louisiana	36	0	35	1	28	2	5	0	0	0	0
Louisiana, Middle	4	0	2	2	1	0	1	0	0	0	0
Louisiana, Western	5	0	5	0	4	0	1	0	0	0	0
Maine	3	0	2	1	2	0	0	0	0	0	0
Maryland											
Massachusetts	19	0	17	2	7	0	10	0	0	0	1
Michigan, Eastern	26	5	22	9	3	15	4	0	2	0	7
Michigan, Western											
Minnesota	0	0	0	0	0	0	0	0	0	0	0
Mississippi, Northern	3	1	3	1	2	0	1	0	0	0	0
Mississippi, Southern	3	0	2	1	0	0	2	0	0	0	0
Missouri, Eastern	30	1	23	8	9	3	11	4	3	3	4
Missouri, Western	13	0	10	3	5	0	5	0	2	1	6
Montana	0	0	0	0	0	0	0	0	0	0	0
Nebraska	1	0	0	1	0	0	0	0	0	0	0
Nevada											
New Hampshire											
New Jersey	32	0	23	9	13	0	10	2	2	2	2
New Mexico											
New York, Northern	3	0	2	1	0	1	1	0	0	0	0
New York, Southern											
New York, Eastern											
New York, Western											
North Carolina, Eastern											
North Carolina, Middle	10	0	10	0	9	1	0	2	1	0	0
North Carolina, Western	7	0	3	4	2	1	0	0	0	0	0
North Dakota	4	1	1	4	1	0	0	0	0	0	0
Ohio, Northern											
Ohio, Southern	7	0	5	2	4	1	0	0	0	0	0
Oklahoma, Northern											
Oklahoma, Eastern	4	0	1	3	0	0	1	0	0	0	0
Oklahoma, Western	18	0	10	8	0	0	10	0	0	0	0
Oregon	10	1	11	0	4	3	4	0	0	0	0
Pennsylvania, Eastern	11	0	9	2	3	0	6	1	1	0	0
Pennsylvania, Middle	1	0	0	1	0	0	0	0	0	0	0
Pennsylvania, Western	23	0	17	6	0	11	6	0	0	0	1
Puerto Rico											
Rhode Island	6	0	6	0	5	0	1	0	0	0	5
South Carolina	10	0	10	0	3	2	5	0	0	0	0
South Dakota	4	0	4	0	1	3	0	0	0	1	0
Tennessee, Eastern	3	0	3	0	3	0	0	0	0	0	0
Tennessee, Middle	0	0	7	1	3	1	3	0	0	0	0
Tennessee, Western	1	0	1	0	0	0	1	0	0	0	0
Texas, Northern	10	1	3	8	3	0	0	0	0	0	0
Texas, Southern	0	0	0	0	0	0	0	0	0	0	0
Texas, Eastern	0	0	0	0	0	0	0	0	0	0	0
Texas, Western	32	0	32	0	12	1	19	0	0	0	0
Utah											
Vermont											
Virgin Islands	2	0	1	1	0	0	1	1	1	1	1
Virginia, Eastern											
Virginia, Western	5	0	3	2	1	2	0	0	0	0	0
Washington, Eastern	14	0	13	1	8	0	5	0	0	0	0
Washington, Western	30	0	25	5	15	5	5	0	0	0	0
West Virginia, Northern											
West Virginia, Southern	1	0	1	0	0	0	1	0	0	0	
Wisconsin, Eastern	1	0	1	0	0	0	1	0	0	0	0
Wisconsin, Western	1	0	1	0	0	1	0	0	0	0	0
Wyoming	2	0	2	0	0	0	2	0	0	0	2
OCRS, Criminal division	4	0	4	0	0		4	0	0	6	0
Totals	667	16	535	148	230	100	205	19	12	24	48

PRETRIAL DETENTION HEARING REPORTS

[Cumulative Fiscal Year 1986 by month]

Month	Initial motions by		Results		Basis for rulings			Reviews by Government result		Reviews (by defense) result	
	Government	Court	Granted	Denied	Flight	Dangerous	Both	Detained	Not detained	Released	Not released
October 1985	188	5	154	39	64	24	66	5	2	2	7
November 1985	310	7	242	75	105	45	92	7	5	17	21
December 1985	169	4	139	34	61	31	47	7	5	5	20
January 1986											
February 1986											
March 1986											
April 1986											
May 1986											
June 1986											
July 1986											
August 1986											
September 1986											
Total	667	16	535	148	230	100	205	19	12	24	48

Mr. BUMPERS. Let me say, however, that I disagree with the court's failure to apply the minimum mandatory penalties of the 1984 act to narcotics offenses. As one of the chief sponsors of the 1984 minimum penalty provisions, I certainly intended that they apply to such offenses. In the event, because of adverse court opinions, congressional intent needs to be clarifed, and I had drafted legislation of my own to do so. I am very pleased to see that Senator THURMOND has included such an amendment in the bill we are passing today and also has made several necessary changes in the bail provisions.

I have long been an advocate of tough bail provisions which act to keep dangerous criminals off the streets, and minimum sentencing for drug-related crimes committed with a firearm appears to me to be absolutely necessary. I believe that there is not enough we can do in our efforts to deter violent crime and drug crime in this country. According to 1984 statistics, one violent crime occurs every 25 seconds in the United States. In Arkansas, violent crime including homicide, rape, robbery, and aggravated assault increased by 9 percent from 1984 to 1985. As the court in Diaz recognized, traffic in drugs is often accompanied by violence. Illicit drug use is spreading to persons of all walks of life and is victimizing children of all ages. I hope that applying a stiffer penalty to drug dealers who use firearms will establish a more effective deterrent to drug trafficking and bring us closer to a safe and civilized society for our children and future generations. I urge the immediate adoption of this legislation.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1236), as amended, was passed as follows:

S. 1236

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

BAIL (CHAPTER I)

SECTION 1. (a) Subparagraph (D) of sectioin 3142(f)(1) of title 18 of the United States Code is amended by—

(1) striking out the words "any felony committed after the person had been convicted of two or more prior offenses" and inserting in lieu thereof "any felony if the person has been convicted of two or more offenses"; and

(2) inserting before the semicolon ", or a combination of such offenses".

(b) Subparagrph (A) of section 3142(f)(2) of title 18 of the United States Code is amended by inserting the word "or" after the semicolon.

(c) Subsection (f) of section 3142 of title 18 of the United States Code is amended by adding at the end thereof the following: "The hearing may be reopened, before or after a determination by the judicial officer, at any time prior to trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of the person as required and the safety of any other person and the community.".

OTHER SENTENCING AMENDMENTS

SEC. 2. (a) Section 4216 of title 18 of the United States Code is repealed.

(b) The item relating to section 4216 in the sectional analysis of chapter 311 of title 18 of the United States Code is amended to read as follows:

"4216. Repealed."

SEC. 3. Section 992 of title 28 of the United States Code is amended—

(1) in subsection (c) by striking out "section 225(a)(1)(B)(ii) of the Sentencing Reform Act of 1983" and inserting in lieu thereof "section 235(a)(1)(B)(ii) of the Sentencing Reform Act of 1984"; and

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

"(d) The provisions of sections 44(c) and 134(b) of this title, regarding the residence of judges, shall not apply to any judge holding a full-time position on the Commission pursuant to subsection (c) of this section.".

SEC. 4. Section 994 of title 28 of the United States Code is amended—

(1) in subsection (a)(2) by—

(A) redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) amending subparagraph (C) to read as follows:

"(C) the sentence modification provisions set forth in sections 3563(c), 3564, 3573, 3582(c), and 3583(e) of title 18;"; and

(C) adding after subparagraph (C) the following new subparagraph:

"(D) the fine imposition provision set forth in section 3572 of title 18;";

(2) in subsection (a)(3) by making it read as follows:

"(3) guidelines or general policy statements regarding the appropriate use of the provisions for revocation of probation and supervised release set forth in sections 3656 and 3583(e) of title 18, and the provisions for modification of the term or conditions of probation and supervised release set forth in sections 3563(c), 3564, and 3583(e) of title 18.";

(3) in subsecton (b) by—

(A) inserting "(1)" after "(b)"; and

(B) designating the second sentence as paragraph (2) and inserting before the period in such paragraph (2) the following: "except that—

"(A) if the maximum term of the range is life imprisonment, the minimum shall not be less than 25 years imprisonment; or

"(B) if the maximum term of the range is one year or less, the maximum shall not exceed the minimum of that range by more than 50 per centum or 60 days, whichever is greater.";

(4) in subsection (h) by striking out "by section 3581(b) of title 18, United States Code,"; and

(5) in subsection (t) by inserting the words "in what circumstances and" after the word "specify" and by deleting the words "that are outside the applicable guideline ranges".

SEC. 5. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended—

(1) in subsection (b) of section 3552 of title 18 of the United States Code by striking out the word "take" in the third sentence and inserting in lieu thereof the word "be";

(2) in subsection (b) of section 3552 of title 18 of the United States Code by inserting the words ", if the defendant is in custody," after the words "the United States Marshal shall" in the eighth sentence; and

(3) in subsection (c) of section 3552 of title 18 of the United States Code by striking out "4247" and inserting in lieu thereof "4244".

SEC. 6. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended—

(1) in subsection (a) of section 3553 of title 18 of the United States Code by striking out the words "of this subsection" in the first sentence; and

(2) in subsection (b) of section 3553 of title 18 of the United States Code by adding the following sentence at the end thereof: "In the absence of an applicable sentencing guideline, the court shall impose an appropriate sentence, having due regard for its relationship to sentences prescribed by guidelines applicable to similar offenses and offenders and the purposes of sentencing set forth in subsection (a)(2).".

SEC. 7. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in subsection (c) of section 3553 of title 18 of the United States Code by inserting "or if it includes an order of only partial restitution," after "If the sentence does not include an order of restitution,".

SEC. 8. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in subsection (a) of section 3561 of title 18 of the United States Code by striking out the second sentence.

SEC. 9. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in paragraph (11) of section 3563(b) of title 18 of the United States Code by striking out "in section 3581(b)".

SEC. 10. (a) Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in subsection (c) of section 3563 of title 18 of the United States Code by—

(1) striking out the phrase ", after a hearing,"; and

(2) inserting the phrase "the provisions of Rule 32.1 of the Federal Rules of Criminal Procedure and" after the words "pursuant to".

(b) Subdivision (b) of Rule 32.1 of the Federal Rules of Criminal Procedure is amended by—

(1) inserting the words "to be" after the word "relief"; and

(2) striking out the period at the end and inserting in lieu thereof ", and the attorney for the government, after having been given notice of the proposed relief and a reasonable opportunity to object, has not objected.".

SEC. 11. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in subsection (b) of section 3564 of title 18 of the United States Code by striking out the second sentence and inserting in lieu thereof the following: "A term of probation runs concurrently with any Federal, State, or local term of probation, supervised release, or parole for another offense to which the defendant is subject or becomes subject during the term of probation. A term of probation does not run while the defendant is imprisoned in connection with a conviction for a Federal, State, or local crime unless the imprisonment is for a period of less than thirty consecutive days.".

SEC. 12. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in subsection (f) of section 3603 of title 18 of the United States Code by striking out the word "supervise" and inserting in lieu thereof "assist in the supervision of," and by inserting a comma after the word "about".

SEC. 13. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in subsection (b) of section 3624 of title 18 of the United States Code by striking out "beginning after the first year of the term" in the first sentence and inserting in lieu thereof "beginning at the end of the first year of the term".

SEC. 14. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in subsection (e) of section 3624 of title 18 of the United States Code by striking out the third sentence and inserting in lieu thereof the following: "The term runs concurrently with any Federal, State, or local term of probation, supervised release, or parole for another offense to which the person is subject or becomes subject during the term of supervised release. A term of supervised release does not run while the person is imprisoned in connection with a conviction for a Federal, State, or local crime unless the imprisonment is for a period of less than thirty consecutive days.".

SEC. 15. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in section 3663 (formerly section 3579) of title 18 of the United States Code by—

(1) striking out "or in lieu of" in subsection (a)(1); and

(2) striking out "sections 3812 and 3813" in subsection (h) and inserting in lieu thereof "sections 3612 and 3613".

SEC. 16. Subsection (a) of section 212 of the Comprehensive Crime Control Act of 1984 is amended in section 3672 (formerly section 3656) of title 18 of the United States Code by adding at the end thereof:

"He shall have the authority to contract, subject to appropriations, with any appropriate public or private agency or person for the detection of and care in the community of an offender who is an addict or a drug-dependent person within the meaning of section 2 of the Public Health Service Act (42 U.S.C. 201). This authority shall include, but not be limited to, providing equipment and supplies; testing; medical, educational, social, psychological, and vocational services; corrective and preventive guidance and training; and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence and his susceptibility to addiction. He may negotiate and award such contracts without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

"He shall pay for presentence studies and reports by qualified consultants and presentence examinations and reports by psychiatric or psychological examiners ordered by the court under section 3552 (b) or (c) except for studies conducted by the Bureau of Prisons.".

SEC. 16A. Section 213 of the Comprehensive Crime Control Act of 1984 is amended in section 3742 of title 18, United States Code—

(1) in subsections (a)(2), (b)(2), (d)(2), and (e)(1) by striking out "an incorrect" and inserting in lieu thereof "a clearly erroneous construction or"; and

(2) in subsection (e) by—

(A) striking out subparagraph (B) of paragraph (1) and inserting in lieu thereof the following:

"(B) designate the appropriate guideline category and remand the case for imposition of a sentence consistent with its decision;"; and

(B) striking out subparagraphs (A) and (B) of paragraph (2) and inserting in lieu thereof the following:

"(A) if it determines that the sentence is too high and the appeal has been filed under subsection (a), it shall set aside the sentence and remand the case for imposition of a sentence consistent with its decision;

"(B) if it determines that the sentence is too low and the appeal has been filed under subsection (b), it shall set aside the sentence and remand the case for imposition of a sentence consistent with its decision; or".

SEC. 17. Section 214 of the Comprehensive Crime Control Act of 1984 is amended—

(1) in subsection (a) of section 5037 of title 18 of the United States Code by striking out "(e)" and inserting in lieu thereof "(d)";

(2) in subparagraph (B) of section 5037(c)(1) of title 18 of the United States Code by striking out "by section 3581(b)";

(3) in subparagraph (B) of section 5037(c)(2) of title 18 of the United States Code by striking out "by section 3581(b)"; and

(4) in subsection (c) of section 5037 of title 18 of the United States Code by adding the following new paragraph at the end thereof:

"The provisions of section 3624 are applicable to an order placing a juvenile under detention.".

SEC. 18. Section 215(a)(5) of the Comprehensive Crime Control Act of 1984 is amended in subdivision (c)(2)(B) of Rule 32 of the Federal Rules of Criminal Procedure by striking out the word "than" and inserting in lieu thereof the word "from".

SEC. 19. Section 215(f) of the Comprehensive Crime Control Act of 1984 is amended in Rule 6 of the Federal Rules of Criminal Procedure by—

(1) striking out the word "or" in subdivision (e)(3)(C)(ii); and

(2) striking out the period at the end of subdivision (e)(3)(C)(iii) and inserting in lieu thereof "; or".

SEC. 20. (a) Subsection (a) of section 224 of the Comprehensive Crime Control Act of 1984 is amended—

(1) in paragraph (1) to read, "in subsection (b)(1)(A), by deleting the sentence which begins 'Any sentence imposing a term of imprisonment under this paragraph';";

(2) in paragraph (2) to read, "in subsection (b)(1)(B), by deleting the sentence which begins 'Any sentence imposing a term of imprisonment under this paragraph';";

(3) by inserting the following new paragraph after paragraph (2):

"(3) in subsection (b)(1)(C), by deleting the sentence which begins 'Any sentence imposing a term of imprisonment under this paragraph';";

(4) by adding the word "and" at the end of paragraph (4);

(5) by deleting paragraph (5); and

(6) by redesignating paragraphs (3) and (4) as (4) and (5), respectively.

(b) Section 224 of the Comprehensive Crime Control Act of 1984 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following:

"(c) Section 405A (21 U.S.C. 845A) is amended—

"(1) in subsection (a) by deleting '(1)' after the word 'punishable', and by deleting the semicolon and all that follows and inserting in lieu thereof a period;

"(2) in subsection (b) by deleting '(1)' after the word 'punishable', and by deleting 'and (2) at least three times any special parole term' and all that follows and by inserting in lieu thereof a period; and

"(3) in subsection (c) by deleting the second sentence.".

SEC. 21. Subsection (a) of section 225 of the Comprehensive Crime Control Act of 1984 is amended—

(1) in paragraph (1) to read, "in subsection (b)(1), by deleting the sentence which begins 'If a sentence under this paragraph provides for imprisonment';";

(2) in paragraph (2) to read, "in subsection (b)(2), by deleting the sentence which begins 'If a sentence under this paragraph provides for imprisonment';";

(3) by redesignating paragraph (3) as (4); and

(4) by inserting the following new paragraph after paragraph (2):

"(3) in subsection (b)(3), by deleting the sentence which begins 'If a sentence under this paragraph provides for imprisonment'; and".

SEC. 22. Subsection (a) of section 232 of the Comprehensive Crime Control Act of 1984 is amended by—

(1) striking out the word "and" the second time it appears and inserting in lieu thereof a comma; and

(2) inserting before the period ", and 'and who are not sentenced to treatment under the Narcotic Addict Rehabilitation Act of 1966'".

SEC. 23. (a) Section 235(a)(1)(B)(i) of the Comprehensive Crime Control Act of 1984 is amended by striking out "eighteen" and inserting "thirty" in lieu thereof.

(b) TECHNICAL AMENDMENT.—Section 235(a)(1)(B)(i) of the Comprehensive Crime Control Act of 1984 is amended by striking out "to section" and inserting "under section" in lieu thereof.

(c) Section 994(q) of title 28, United States Code, is amended by striking out "within three years" and all that follows through "Act of 1983" and inserting in lieu thereof "not later than one year after the initial set of sentencing guidelines promulgated under subsection (a) goes into effect."

(d) Section 235(a)(1) of the Comprehensive Crime Control Act of 1984 is amended by striking out "twenty-four" and inserting "thirty-six" in lieu thereof.

FORFEITURE (CHAPTERS III AND XXIII)

SEC. 24. Section 1963 of title 18 of the United States Code is amended—

(1) in subsection (c) by striking out "(m)" and inserting in lieu thereof "(l)";

(2) in subsection (j) by striking out "(m)" and inserting in lieu thereof "(l)"; and

(3) by redesignating subsections (e), (f), (g), (h), (i), (j), (k), (l), and (m), as subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l), respectively.

SEC. 25. Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended in the sentence beginning "Upon the filing", by striking out "$2,500" and inserting in lieu thereof "$5,000".

SEC. 26. (a) Subsection (c) of section 616 of the Tariff Act of 1930 (19 U.S.C. 1616(c)) as enacted by Public Law 98-573 is amended by inserting "any other Federal agency or to" after "property forfeited under this Act to".

(b) Section 616 of the Tariff Act of 1930 (19 U.S.C. 1616) as enacted by Public Law 98-473 is repealed.

SEC. 27. Section 413 of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853) is amended—

(1) in subsection (c) by striking out "(o)" and inserting in lieu thereof "(n)";

(2) in subsection (f) by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)"; and

(3) in subsection (k) by striking out "(o)" and inserting in lieu thereof "(n)".

SEC. 28. (a) Subsection (b) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(b)) is amended—

(1) by striking out "or criminal" after "Any property subject to civil";

(2) in paragraph (4) by striking out "or criminal" after "is subject to civil"; and

(3) by adding the following at the end thereof:

"The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.".

(b) Subsection (i) of section 511 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(i)) is amended by inserting ", or a violation of State or local law that could have been charged under this title or title III," after "title III".

SEC. 29. (a) Subparagraph (E) of section 524(c)(1) of title 28 of the United States Code is amended by inserting "the Federal Bureau of Investigation, the United States Marshals Service," after the words "for official use by", and by inserting a comma before the word "or".

(b) Paragraph (4) of section 524(c) of title 28 of the United States Code is amended by striking out "remaining after the payment of expenses for forfeiture and sale authorized by law" and inserting in lieu thereof ", except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d))".

OFFENDERS WITH MENTAL DISEASE OR DEFECT

(CHAPTER IV)

SEC. 30. Subdivision (c) of Rule 12.2 of the Federal Rules of Criminal Procedure is amended by inserting "4241 or" before "4242".

DRUG ENFORCEMENT AMENDMENTS

(CHAPTER V)

SEC. 31. Paragraph (14) of section 102 of the Controlled Substances Act (21 U.S.C. 802(14)) is amended in the second and third sentences by striking out the word "the" after the words "the term 'isomer' means" and inserting in lieu thereof "any".

SEC. 32. Paragraph (4) of subsection (a) of schedule II of the Controlled Substances Act (21 U.S.C. 812) is amended to read as follows:

"(4) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which contains any quantity of any of the substances referred to in this paragraph.".

SEC. 33. (a) Subparagraph (A) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in clause (i) to read as follows:

"(i) 100 grams or more of a mixture or substance containing a detectable amount of a narcotic drug in schedule I or II other than a narcotic drug consisting of—

"(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(II) cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(III) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(IV) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subclauses (I) through (III);";

(2) in clause (ii) by adding "a mixture or substance containing a detectable amount of" after "a kilogram or more of";

(3) in clause (iii) by adding "a mixture or substance containing a detectable amount of" after "500 grams or more of";

(4) in clause (iv) by adding "a mixture or substance containing a detectable amount of" after "5 grams or more of"; and

(5) by adding at the end thereof, "Any sentence imposing a term of imprisonment under this paragraph shall, in the absence of such a prior conviction, impose a special parole term of at least 4 years in addition to such term of imprisonment and shall, if there was such a prior conviction, impose a special parole term of at least 8 years in addition to such term of imprisonment.".

(b) Paragraph (5) of section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)(5)) is amended by adding the words "the fines provided in" after the word "Notwithstanding".

SEC. 34. Subsection (b) of section 405A of the Controlled Substances Act (21 U.S.C. 845a(b)) is amended by inserting "parole" after "(2) at least three times any special".

SEC. 35. Section 503(a) of the Controlled Substances Act (21 U.S.C. 873(a)) is amended by—

(1) striking out "and" at the end of paragraph (5);

(2) striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following:

"(7) notwithstanding any other provision of law, enter into contractual agreements with State and local law enforcement agencies to provide for cooperative enforcement and regulatory activities under this Act.".

SEC. 36. Section 508 of the Controlled Substances Act (21 U.S.C. 878) is amended by—

(1) inserting "(a)" before "Any officer or employee";

(2) inserting after "Drug Enforcement Administration" the following: "or any State or local law enforcement officer"; and

(3) adding at the end thereof the following new subsection:

"(b) State and local law enforcement officers performing functions under this section shall not be deemed Federal employees and shall not be subject to provisions of law relating to Federal employees, except that such officers shall be subject to section 3374(c) of title 5, United States Code.".

SEC. 37. (a) Paragraph (1) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended—

(1) in subparagraph (A) by striking out clauses (i), (ii), and (iii) and inserting in lieu thereof the following:

"(i) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

"(ii) cocaine, its salts, optical and geometric isomers, and salts of isomers;

"(iii) ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

"(iv) any compound, mixture, or preparation which contains any quantity of any of the substances referred to in clauses (i) through (iii);";

(2) in subparagraph (B) by inserting "a mixture or substance containing a detectable amount of" after "a kilogram or more of";

(3) in subparagraph (C) by inserting "a mixture or substance containing a detectable amount of" after "500 grams or more of";

(4) in subparagraph (D) by inserting "a mixture or substance containing a detectable amount of" after "5 grams or more of"; and

(5) by adding at the end thereof, "If a sentence under this paragraph provides for imprisonment, the sentence shall include a special parole term of not less than four years in addition to such term of imprisonment.".

(b) Paragraph (3) of section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(3)) is amended by striking out ", except as provided in paragraph (4)".

LABOR RACKETEERING AMENDMENT (CHAPTER VIII)

SEC. 38. Paragraph (2) of section 411(a) of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111(a)(2)) is amended by striking out "entity" and inserting in lieu thereof "person".

CURRENCY AND FOREIGN TRANSACTIONS REPORTING ACT AMENDMENTS (CHAPTER IX)

SEC. 39. Paragraph (2) of section 5316(a) of title 31 of the United States Code is amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

MISCELLANEOUS VIOLENT CRIME AMENDMENTS (CHAPTER X)

SEC. 40. Subsection (a) of section 373 of title 18 of the United States Code is amended by—

(1) inserting after the words "the person or property of another" the words ", or against such person's own property,"; and

(2) inserting before the word "death" the words "life imprisonment or".

SEC. 41. Subsection (c) of section 924 of title 18 of the United States Code is amended by—

(1) adding after the words "during and in relation to any" the words "felony described in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (21 U.S.C. 955a) or any";

(2) adding after the words "in addition to the punishment provided for such" the words "felony or"; and

(3) adding after the words "term of imprisonment including that imposed for the" the words "felony or".

SEC. 42. Subsection (a) of section 929 of title 18 of the United States Code is amended by—

(1) adding after the words "during and in relation to the commission of a" the words "felony described in the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or section 1 of the Act of September 15, 1980 (21 U.S.C. 855a), or a";

(2) adding after the words "in addition to the punishment provided for the commission of such" the words "felony or"; and

(3) adding after the words "term of imprisonment including that imposed for the felony" the words "or crime of violence".

SEC. 43. (a) Subsection (d) of section 1201 of title 18 of the United States Code is amended by adding the words "or (a)(5)" after the words "subsection (a)(4)".

(b) Paragraph (2) of section 115(b) of title 18 of the United States Code is amended to read as follows:

"(2) A kidnaping or attempted kidnaping in violation of this section shall be punished as provided in section 1201 of this title for the kidnaping or attempted kidnaping of a person described in section 1201(a)(5) of this title.".

SEC. 44. (a) Chapter 65 of title 18 of the United States Code is amended by redesignating section 1365 as enacted by Public Law 98-473 as section 1366.

(b) The analysis at the beginning of chapter 65 of title 18 of the United States Code is amended by striking out "1365" the second time it appears and inserting in lieu thereof "1366".

SERIOUS NONVIOLENT OFFENSES (CHAPTER XI)

SEC. 45. Section 215 of title 18 of the United States Code is amended—

(1) in subsections (a) and (b) by inserting the words ", bank holding company, or savings and loan holding company" after the words "financial institution" the second and third place in which they appear;

(2) in subsection (c)(1)(D) by striking out "Administrator of the"; and

(3) in subsection (d) by inserting the words ", bank holding company, or savings and loan holding company" after the words "financial institution" each place in which they appear.

SEC. 46. Section 219 of title 18 of the United States Code is amended—

(1) in the first paragraph to read:

"Whoever, being a public official, is or acts as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, as amended, shall be fined not more than $10,000 or imprisoned for not more than two years, or both."; and

(2) in the last paragraph by striking out "the Delegate from the District of Columbia" and inserting in lieu thereof "Delegate", and by striking out ", or a juror".

SEC. 47. (a) Chapter 25 of title 18 of the United States Code is amended by redesignating section 510 as enacted by Public Law 98-473 as section 513.

(b) The analysis at the beginning of chapter 25 of title 18 of the United States Code is amended by striking out "510. Securities of the State and private entities.", and by adding at the end thereof "513. Securities of the States and private entities.".

SEC. 48. (a) Sections 1791 and 1792 of title 18 of the United States Code are amended by striking out the phrase "Federal penal or correctional facility" each time it appears and inserting in lieu thereof "Federal penal, detention, or correctional facility".

(b) Section 1791 of title 18 of the United States Code is further amended—

(1) in subparagraph (a)(1)(B) by adding the words "ammunition or" before "any other weapon";

(2) in subparagraph (a)(1)(C) by adding before the semicolon the words ", lysergic acid diethylamide, or phencyclidine";

(3) in subparagraph (a)(1)(D) by striking out "other than a narcotic drug, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)" and inserting in lieu thereof "other than a controlled substance described in subparagraph (C)"; and

(4) by making subsection (c) read as follows:

"(c) DEFINITIONS.—As used in this section, 'ammunition', 'firearm', and 'destructive device' have the meaning given those terms, respectively, in section 921 of title 18 of the United States Code.".

PROCEDURAL AMENDMENTS (CHAPTER XII)

SEC. 49. Subsection (e) of section 1028 of title 18 of the United States Code is amended by striking out "title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)" and inserting in lieu thereof "chapter 224 of this title".

SEC. 50. Subsection (f) of section 1029 of title 18 of the United States Code is amended by striking out "title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)" and inserting in lieu thereof "chapter 224 of this title".

SEC. 51. Section 3076 of title 18 of the United States Code is amended by striking out "title V of the Organized Crime Control Act of 1970" and inserting in lieu thereof "chapter 224 of this title".

SEC. 52. Section 3522 of title 18 of the United States Code is amended—

(1) in subsection (a) by striking out the word "parolees" in the second sentence and inserting in lieu thereof "probationers or parolees, as the case may be";

(2) in subsection (b)—

(A) by striking out "subsection (a)" and inserting in lieu thereof "probation or parole"; and

(B) by striking out the word "shall" and inserting in lieu thereof "may";

(3) by striking out subsection (c); and

(4) by redesignating subsection (d) as subsection (c).

SEC. 53. Section 1921 of title 28 of the United States Code is amended by adding the following new paragraph at the end thereof:

"Notwithstanding the provisions of section 3302 of title 31, the United States Marshals Service is authorized, to the extent provided in appropriations acts, to credit to its appropriation account all fees, commissions, and expenses collected for—

"(1) the service of civil process, including complaints, summonses, subpenas, and similar process; and

"(2) seizures, levies, and sales associated with judicial orders of execution,

by the United States Marshals Service and to use such credited amounts for the purpose of carrying out such activities.".

VICTIM COMPENSATION AND ASSISTANCE (CHAPTER XIV)

SEC. 54. Section 3013 of title 18 of the United States Code is amended by adding the following new subsection at the end thereof:

"(c) No assessment shall be imposed on any person convicted of an offense for which local rules of the district court, or other Federal law, establishes that collateral may be posted in lieu of appearance in court.".

SEC. 55. Subsection (a) of section 3671 of title 18 of the United States Code, as enacted by section 1406(a) of the Comprehensive Crime Control Act of 1984, is amended by striking out "chapter 227 or 231 of" after the words "an order of restitution under".

SEC. 56. (a) Sections 3671 and 3672 of title 18 of the United States Code, as enacted by section 1406(a) of the Comprehensive Crime Control Act of 1984, are redesignated as sections 3681 and 3682, respectively.

(b) The sectional analysis of chapter 232 of title 18 of the United States Code, as added by section 1406(a) of the Comprehensive Crime Control Act of 1984, is amended by striking out "3671" and "3672" and inserting in lieu thereof "3681" and "3682", respectively.

SEC. 57. (a) Chapter 232 of title 18 of the United States Code, as enacted by section 1406(a) of the Comprehensive Crime Control Act of 1984, is redesignated as chapter 232A.

(b) The chapter analysis of part II of title 18 of the United States Code is amended by striking out the item relating to chapter 232, as added by section 1406(b) of the Comprehensive Crime Control Act of 1984, and inserting in lieu thereof the following:

"232A. Special forfeiture of collateral profits of crime..... 3681".

SEC. 58. Subsection (e) of section 1402 of the Comprehensive Crime Control Act of 1984 is amended by—

(1) striking out "the next succeeding fiscal year" and inserting in lieu thereof "the next two succeeding fiscal years"; and

(2) striking out "year" after "at the end of which".

SEC. 59. Section 1407 of the Comprehensive Crime Control Act of 1984 is amended—

(1) in subsection (h) by striking out "1302" and inserting in lieu thereof "1402"; and

(2) by redesignating subsection (h) as subsection (g).

SEC. 60. Chapter XIV of the Comprehensive Crime Control Act of 1984 is amended by striking out section 1410.

TRADEMARK COUNTERFEITING

(CHAPTER XV)

SEC. 61. (a) Chapter 113 of the title 18 of the United States Code is amended by redesignating section 2320 as enacted by Public Law 98-473 as section 2321.

(b) The analysis at the beginning of chapter 113 of title 18 of the United States Code is amended by striking out

"2320. Trafficking in counterfeit goods or services."

and by adding at the end thereof

"2321. Trafficking in counterfeit goods or services.".

ACCESS DEVICES AND COMPUTER

(CHAPTER XXI)

SEC. 62. (a) Section 1030 of title 18 of the United States Code is amended by adding the following new paragraph at the end thereof:

"(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.".

(b) Delete paragraph (3) of subsection (a) of section 1030 of title 18 of the United States Code.

(c) Delete "or" after the semicolon at the end of paragraph (2) of subsection (a) of section 1030 of title 18 of the United States Code, and insert "or" after the semicolon at the end of paragraph (1) of subsection (a) of section 1030 of title 18 of the United States Code.

MISCELLANEOUS AMENDMENTS

SEC. 63. Section 3 of title 18 of the United States Code is amended by inserting before the word "death" the words "life imprisonment or".

SEC. 64. (a) Chapter 1 of title 18 of the United States Code is amended by adding a new section 17 as follows:

"§ 17. Organization defined

"For purposes of this title, the term 'organization' means a person other than an individual.".

(b) The sectional analysis for chapter 1 of title 18 of the United States Code is amended by adding after the item relating to section 16 the following:

"17. Organization defined.".

SEC. 65. Subsection (a) of section 201 of title 18 of the United States Code is amended by striking out "the Delegate from the District of Columbia" and inserting in lieu thereof "Delegate".

SEC. 66. Paragraph (1) of section 203(a) of title 18 of the United States Code is amended by striking out "Delegate from the District of Columbia, Delegate Elect from the District of Columbia" and inserting in lieu thereof "Delegate, Delegate Elect".

SEC. 67. Subsection (h) of section 844 of title 18 of the United States Code is amended to read as follows:

"(h) Whoever uses fire or an explosive to commit, or carries an explosive during the commission of, any felony which may be prosecuted in a court of the United States, including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device, shall, in addition to the punishment provided for such felony, be sentenced to imprisonment for five years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for ten years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the felony in which the fire or explosive was used or the explosive was carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.".

SEC. 68. Section 1961(a) of title 18 of the United States Code is amended by adding, after the words "section 1511 (relating to the obstruction of State or local law enforcement)," the words "section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant),".

SEC. 69. The first and second paragraphs of section 2315 of title 18 of the United States Code are amended by—

(1) inserting "possesses," after "receives,"; and

(2) striking out "moving as, or which are a part of, or which constitute interstate or foreign commerce," and inserting in lieu thereof "which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken,".

SEC. 70. Subsection (m) of section 223 of the Comprehensive Crime Control Act of 1984 is amended in paragraph (3)(B) to read as follows:

"(B) by amending subsection (b) to read as follows:

" '(b) An offender transferred to the United States to serve a sentence of imprisonment that is longer than the maximum period of time specified in the applicable sentencing guideline promulgated pursuant to section 994(a)(1) of title 28, United States Code, as determined by the Bureau of Prisons, shall serve in an official detention facility the maximum period of time specified in the applicable sentencing guideline and shall serve the remainder of the term imposed as a term of supervised release. To the extent permitted by the applicable treaty, a determination by the Bureau of Prisons as to whether the transferred offender shall serve a term of supervised release and the length of such term to be served may be appealed to the United States court of appeals for the district in which the offender is imprisoned after transfer to the United States, and the court of appeals shall decide and dispose of the appeal in accordance with section 3742 as though the determination appealed had been imposed by the United States district court. A determination by the Bureau of Prisons shall be made only after affording the transferred offender an opportunity (1) to submit evidence or information as the applicable sentencing guideline, and (2) for an appeal within the Bureau of Prisons of such determination by a reviewing authority established by the Director pursuant to regulations.'; and".

SEC. 71. Section 3142(c)(2)(J) of title 18 of the United States Code is amended by inserting ", psychological," after "medical".

SEC. 72. Paragraphs (3) of subsections (d), (g), and (h) of section 922 of title 18 of the United States Code are amended by deleting the words "marihuana or any depressant or stimulant drug (as defined in section 201(v) of the Federal Food, Drug, and Cosmetic Act) or narcotic drug (as defined in section 4731(a) of the Internal Revenue Code of 1954)" and inserting in lieu thereof the words "marihuana or any depressant or stimulant substance or narcotic drug (as those terms are defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802)".

SEC. 73. Section 875 of title 18 of the United States Code is amended by striking the phrase "transmits in interstate commerce" each place where it appears and inserting in lieu thereof the words, "transmits in interstate or foreign commerce".

SEC. 74. Section 351 of title 18 of the United States Code is amended—

(a) in subsection (a) by adding after "Deputy Director of Central Intelligence," the words "a major candidate for the office of President or Vice-President, as defined in subsection (a)(7) of section 3056 of this title", and

(b) in subsection (h) by deleting the words "an official" and inserting in lieu thereof "a person".

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion to reconsider on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, I wish to thank the able majority leader and the able Democratic leader for their cooperation in this matter. This is a very important piece of legislation. I feel it is going to make benefical improvements to the criminal procedures in this Nation.

Mr. BYRD. Mr. President, I thank the distinguished chairman of the committee (Mr. THURMOND).

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

The PRESIDING OFFICER (Mr. PRESSLER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from South Carolina.

THE LIBYAN THREAT TO TUNISIA

Mr. THURMOND. Mr. President, in the last few days, Americans have closely followed events in Libya. I have previously stated my support for

the President, and wholeheartedly agree with our Commander in Chief, that repeated acts of Qadhafi-sponsored international terrorism ultimately forced our armed response.

Fortunately, the United States has the ability to organize and equip the type of self-defense mission which was launched on Monday. However, we have allies in that troubled region who are outmanned and outgunned by Colonel Qadhafi. I specifically refer to Tunisia and the threat Colonel Qadhafi poses to our friends in that country. Last June, Tunisian President Bourguiba visited the United States. I had the opportunity to meet with him. He is a fine man, and a true friend of our Nation. During that visit, President Reagan told President Bourguiba that the United States was committed to the sanctity of Tunisia's borders, and that Tunisia could rely on the continued support and friendship of our Nation. Based on present events in that region, the proximity of Tunisia to Libya, and recent history of aggressive acts Qadhafi has directed at Tunisia, I believe that we must now demonstrate strong support for our Tunisian ally. The basis for this view can be clearly shown by a brief overview of recent Tunisian-Libyan relations.

In 1976, Libya expelled almost 7,000 Tunisians. In 1978, it was strongly suspected that Qadhafi covertly organized riots in Tunis. In 1980, Libyan-trained commandos seized the town of Gafsa and unsuccessfully attempted to launch a coup against the Bourguiba government. Since 1976, 26,000 more Tunisians have been expelled from Libya. In the last year, Libya has violated Tunisian airspace on at least four occasions. Libyan military jets can fly from Libyan airfields, to the center of Tunisia and return to base in less than 10 minutes. Qadhafi has also attempted to discourage tourism in Tunisia, which is her second largest revenue producer. Qadhafi agents have attempted to smuggle letter bombs into Tunisia. He has tried to ruin the Tunisian economy by banning all imports from Tunisia and barring all Libyan travel to Tunisia. Libyan broadcasts into Tunisia have called on Tunisian soldiers to rebel against the Bourguiba government. In August 1985, relations between Libya and Tunisia further deteriorated when Qadhafi amassed 25,000 Libyan troops on the Tunisian border. Also that month, Tunisian Security Police intercepted a three-man Libyan hit-squad carrying explosives with the express intent of executing terrorist attacks against civilian targets in Tunisia. On September 1, 1985, Colonel Qadhafi clearly expressed Libya's position on the sanctity of the Tunisian border. He said:

> We are one nation from the ocean to the Gulf and we do not at all recognize borders which the colonial powers have created in order to divide the Arab nation. From now on, we are going to support the achievement of Arab unity by force . . . . Arab unity can only be achieved either through revolution, something that we are promoting day and night, and by force, the use of which has become necessary. . . .

Because of numerous acts of Libyan aggression and threats, Tunisia broke all diplomatic relations with Libya on September 26, 1985.

Yesterday, Libyan radio once again appealed to Tunisians to overthrow the Bourguiba government. Libya claimed that President Bourguiba had allowed United States aircraft to fly over Tunisian airspace on Monday. Tunisia is the only Arab country that has failed to denounce our mission to Libya.

It is very clear that prior to this week Qadhafi's goals included either the overthrow of the present Tunisian government and the installation of pro-Qadhafi regime, or an invasion of Tunisia by Libya. Today Qadhafi is calling on all Arab nations to condemn the United States. Tunisia has already been the victim of Qadhafi's aggressions. It will certainly be even more vulnerable to Qadhafi-endorsed terror due to the friendship which exists between our Nations.

Libya has a 20 to 1 advantage over Tunisia in troops and in military equipment. This statistic is especially significant in terms of Libyan aircraft advantage. Last June, the President spoke of our commitment to Tunisia. Although it is my hope that the security of Tunisia will not be threatened in the coming weeks, I am not optimistic about the possibilities of such an outcome. Accordingly, we must be prepared to support our friends in Tunisia, and allow that nation the opportunity to defend herself against the Qadhafi menace.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. (Mr. GORTON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TASK FORCE ON TERRORISM

Mr. THURMOND. Mr. President, last July, President Reagan directed the formation of a task force on terrorism. Its purpose was to study and analyze national priorities, policies, and programs to combat terrorism. Adm. James L. Holloway III, former Chief of Naval Operations, served as Chairman of the task force. Admiral Holloway recently wrote an interesting article for The Officer, a publication of the Reserve Officers Association of the United States, regarding the findings and recommendations of the task force.

Mr. President, I ask unanimous consent that the text of this article be printed in the RECORD.

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

FEAR OF TERRORISM RANKS HIGH IN PUBLIC CONCERNS

In late July the president directed the formation of a governmentwide terrorism task force, chaired by Vice President Bush. Its purpose was to review the national priorities, policies and programs to combat terrorism. The President requested that a report with appropriate recommendations be forwarded to him by the end of 1985.

On December 20, a classified report was submitted to the President. President Reagan approved the task force recommendations on January 20 and directed their implementation. One of the recommendations included a report to the American people. The public report of the Vice President's Task Force on Combating Terrorism was presented to the President on March 6.

The Task Force was made up of 14 senior administration officials. As a result, the report reflects the considered position of the executive branch.

During our deliberations we reviewed the significant literature on the subject, consulted with more than 100 experts on terrorism, toured appropriate government facilities, and received briefings from all government agencies concerned with terrorism. Additionally, the Vice President met personally with members of Congress, airline and media executives, distinguished diplomats, and former cabinet officials. Representatives of the task force traveled to 12 foreign countries and conferred with officials from many others.

The facts show that most international terrorism occurs in the Middle East and Western Europe. However, more terrorist acts were directed at US citizens in Latin America last year than in any other region. Both Nicaragua and Cuba have been implicated in terrorist activity in Latin America.

The task force found that terrorism has a substantial public impact far disproportionate to the numbers of Americans killed or wounded by terrorists. For example, last year there were 23 Americans killed in terrorist incidents overseas, and two Americans killed by terrorists within the United States. This contrasts to approximately 40,000 highway deaths and 18,000 homicides nationwide in an average year.

Yet, terrorism emerges as one of the things that most deeply bothers Americans. Terrorism, according to public opinion surveys, ranks near the top of their concerns, along with strategic arms control, the federal deficit and unemployment.

The principal conclusion of the task force is that US policies and priorities for combating terrorism are sound, well-conceived, and properly organized. We did, however, make a series of recommendations designed to enhance our efforts to combat the terrorist threat.

These recommendations do not purport to be a cure-all, but do represent some pragmatic and prudent measures that we believe will improve the efficiency of our organization and the effectiveness of our efforts.

Here are some of our principal recommendations.

In the area of National Policy and Programs, we propose:

A national programming document, designed to collect the many elements of the program into an integrated management system.

A realistic policy framework for senior decisionmakers, designed to provide consistency when dealing with terrorist incidents.

A full-time National Security Council position and support staff to strengthen coordination of the national program.

In the area of International Cooperation, we concluded that agreements with like-minded governments are critical to long-term success and can be achieved through multilateral and bilateral cooperation. We recommended that the State Department continue to seek this coordination through:

General resolutions from the United Nations and other specialized organizations.

Binding conventions on subjects such as hijacking and hostage-taking.

Revision of extradition treaties to close existing loopholes and ensure that terrorists are brought to justice.

In the area of Intelligence, we recognized from the outset of the Task Force deliberations the critical role played by intelligence in the national effort to combat terrorism. We concluded that the current intelligence produced on terrorism should be more predictive, with greater emphasis on the type of information needed by senior decisionmakers. We have therefore recommended:

Formation of a consolidated intelligence center specialized in terrorism, where a cadre of experts from various government departments and agencies would routinely and continuously analyze and process intelligence related to the terrorist threat.

Expansion of our effort in the area of human intelligence collection, which is essential if we are to be successful in penetrating terrorist groups and their support systems.

Enhancement of intelligence exchanges with like-minded foreign governments, with international law enforcement agencies and national police organizations.

In the area of Legislation, the Task Force observed that terrorism is a bipartisan issue. As the threat has increased, so has the resolve of Congress and the executive branch to ensure appropriate punishment of terrorists. Our recommendations concentrated on closing existing statutory loopholes in our ability to prosecute terrorists and reduce their sources of support. Some of our specific recommendations included:

Expand federal criminal jurisdiciton to allow prosecution of terrorists involved in assault upon U.S. citizens overseas.

Pursue legislation making terrorists found guilty of murdering an American during a hostage-taking situation, subject to the death penalty.

Limit the scope of the political offense exception to our extradition treaties, beginning with the US-UK agreement currently pending in the Senate.

Support the formation of a Congressional Joint Committee on Intelligence to streamline notification procedures in time-sensitive terrorist situations and reduce access to highly classified information.

In the area of Communication, we found that terrorism deeply troubles the American people. Americans believe terrorism affects the credibility of the United States as a powerful country and world leader. Americans want their government to do more to combat terrorism. Task Force recommendations were:

Increase the existing efforts to inform the American people about terrorism, emphasizing constraints imposed by the sovereignty of foreign nations and our own concern for human lives and the role of law. We think it important to carefully explain that the United States is prepared to respond to terrorists or sponsors of terrorism with force in a manner consistent with our democratic principles.

Cooperate more closely with the media during terrorist incidents.

Finally, I would like to emphasize that the very nature of terrorism makes precise assessment difficult. While terrorism poses no serious challenge to the national will or national survival, it remains a complex, dangerous threat for which there is no quick or easy solution. As Vice President Bush stated in the introduction to the report: ". . . I believe that the recommendations of our Task Force will significantly improve America's capability for combating terrorism. As long as vicious attacks continue, terrorism will remain a top priority of this Administration."

Mr. THURMOND. 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.

EDUCATION DAY, USA

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 582, Education Day.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 582) to designate April 20, 1986, as "Education Day, USA."

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered, ordered to a third reading, read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

The preamble was agreed to.

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

The motion to lay on the table was agreed to.

ANNIVERSARY OF BAY OF PIGS INVASION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Joint Resolution 599, commemorating the 25th anniversary of the Bay of Pigs invasion, which has just been received from the House.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 599) commemorating the 25th anniversary of the Bay of Pigs invasion to liberate Cuba from Communist tyranny.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. CHILES. Mr. President, House Joint Resolution 599, introduced by Senator PEPPER on the House side, is a companion bill to Senate Joint Resolution 319, a resolution I have introduced in the Senate. This resolution commemorates the 25th anniversary of the Bay of Pigs liberation effort. I am glad the House has acted to approve this resolution. Both Senator PEPPER and I intend this resolution to be a special and appropriate acknowledgement in honor of the men of the 2506 Brigade. Their bravery and unhesitating response to the call of duty is to be admired by all.

We must not allow time to dim our memory of the heroes of the 2506 Brigade. They stand as shining examples of the Cuban people's love for freedom, their willingness to fight for democratic principles, and their vow to restore liberty to their homeland. Twenty-five years after the Bay of Pigs attempted liberation, the desire is just as strong, the resolve as profound, the yearning as sincere that Cuba should be free.

As lovers of freedom, as defenders of democracy, we do not rest while liberty is denied in Cuba, in Nicaragua, in Afghanistan, and Angola. The fight will continue against injustice, against oppression and tyranny so long as freedom loving people remain in chains.

I share with my constituents in the Cuban-American community the pride in the heroes of Playa Giron. In commemorating this attempt to liberate Cuba from Communist tyranny, we remember the brave men who fought and died in the battle to preserve freedom.

● Mrs. HAWKINS. Mr. President, today marks the 25th anniversary of the Bay of Pigs operation. I believe that it is important that we remember the ill-fated Bay of Pigs operation because the lessons of the this episode are important for this country to understand.

Twenty-five years ago, over 1,400 Cuban exiles, known as the 2506 Brigade, landed on Cuba to overthrow the government of Fidel Castro. This force was sponsored and supported by the Central Intelligence Agency. Unfortunately, the Cuban Army successfully repelled the exiles in less than 72 hours. It has become clear that this exile force entered into the Bay of Pigs operation with the understanding that it would receive stronger military backing by the United States than it actually received. The effect of the weak backing by the United States was to leave a force of dedicated allies ex-

posed on a beachhead and vulnerable to devastating fire by Castro's forces; 107 members of the exile force were killed in the operation.

Mr. President, the failure of the Bay of Pigs operation has had a profound effect on the United States and the security of the Western Hemisphere. First, the United States' failure to provide stronger backing to the exile force undermined our credibility as a reliable ally. We should have provided the support for the operation that would have guaranteed its success. No allies of ours should be expected to risk their lives in operations that we support if we are not intent on seeing the operations successfully completed. Our failure to provide strong and unequivocal support for the Contras in Nicaragua will similarly undermine our position in Central America.

Second, the failure of the Bay of Pigs operation has left us with a Communist, totalitarian state just 90 miles off our coast. This presence has caused us serious complications in military planning and represents an ongoing threat to our security. This threat brought this country as close to a direct confrontation with the Soviet Union as we have experienced in postwar history. The Cuban missile crisis was a direct result of the failure at the Bay of Pigs.

Finally, Mr. President the failure at the Bay of Pigs resulted in the consolidation of power by a regime in Havana that is dedicated to the cause of destabilizing the entire Western Hemisphere, that rejects the basic observance of the human rights of its citizens, and serves Soviet interests around the world. The failure to stop the consolidation of power by Fidel Castro with the minimal investment required 25 years ago, has resulted in far more expensive efforts to restrict his freedom of action now.

Mr. President, I salute the bravery of the 2506 Brigade in their stand for the cause of freedom, democracy, and security in the Western Hemisphere. I can assure them that we will not forget the lessons of the tragic history of the Bay of Pigs. These lessons must be remembered and the mistakes not repeated because there is too much at stake in the battle for freedom and democracy in this dangerous world.●

The PRESIDING OFFICER. The joint resolution is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

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

The motion to lay on the table was agreed to.

CONVEYANCE OF PROPERTY TO THE DISTRICT OF COLUMBIA

Mr. DOLE. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. 2251, and I ask for its immediate consideration.

Mr. BYRD. Mr. President, there is no objection.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2251) to authorize the Administrator of General Services to convey property to the District of Columbia, and for other purposes.

Mr. METZENBAUM. Mr. President, I rise in support of S. 2251 to authorize the Administrator of General Services to convey to the District of Columbia all rights to the property at 425 Second Street NW.

I visited that property. It is a physically depressed property, desperately in need of rehabilitation. But it is shelter for 900 to 1,000 homeless persons.

Passage of the bill fulfills a promise made by the administration and gives at least a bed and warmth to 1,000. It is a promise we must keep.

Here in our Capital City, as elsewhere in our country, there has been an explosion in the number of homeless persons. Homelessness has assumed proportions of a scale and complexity not seen since the Great Depression. Growing numbers of families, children, and the recently unemployed have become part of the dispossessed. It is a nationwide crisis demanding Federal attention, for the magnitude of the problem has increased beyond the capacity of local efforts.

The U.S. Conference of Mayors surveyed 25 cities whose mayors are members of the Task Force on Hunger and Homelessness. Their survey shows that homelessness has increased by 25 percent. In 60 percent of those cities, emergency shelters cannot accommodate all the people seeking assistance, and shelters routinely turn away people in need. Some 90 percent of the cities indicated that problems of the "new poor" continue.

There is a severe shortage of housing for low-income persons—and yet we cut back on housing subsidies.

Persons with chronic mental illness are among the homeless, but we continue to discharge the mentally ill from institutions without adequate provisions for care and supervision.

Youths who have "aged out" of the foster care system are among the homeless.

Twenty-eight percent of the homeless are families with children.

I have seen estimates as high as 2 million to 3 million homeless persons.

Immediate Federal action is needed to provide a rational, comprehensive initiative. We cannot continue to ignore the ill-housed, ill-fed among us. We must not force our most vulnerable and destitute to bear the burden of deficit reduction.

I intend to look into remedies for this tragic, national scandal.

Over the last few weeks I have been examining how to develop a comprehensive Federal initiative to care for the homeless. I intend to offer legislation in this area shortly.

Meanwhile, this bill is a small step toward better care for the homeless in Washington. But its passage should be viewed as the beginning of a congressional commitment to the homeless across America.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read a third time, and passed, as follows:

S. 2251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of General Services is authorized and directed to convey to the District of Columbia, without cost, all rights, title, and interest in the property located at 425 Second Street, Northwest, in the District of Columbia.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

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

The motion to lay on the table was agreed to.

SUBSTITUTION OF CONFEREE ON H.R. 6, WATER RESOURCES BILL

Mr. DOLE. Mr. President, I ask unanimous consent that the Senator of North Dakota [Mr. BURDICK] be substituted as a conferee on H.R. 6, water resources bill, in place of the Senator from Montana [Mr. BAUCUS].

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

ORDER FOR STAR PRINT OF SENATE JOINT RESOLUTION 313

Mr. BYRD. Mr. President, on behalf of Mr. HOLLINGS, I ask unanimous consent that Senate Joint Resolution 313 be star printed to reflect changes which I now send to the desk.

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

The material is as follows:

S.J. RES. 313

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, to be valid only if ratified by the legislatures of three-fourths of the several States within seven years after the date of final passage of this joint resolution.

"ARTICLE —

"SECTION 1. The Congress may enact laws regulating the amounts of contributions and expenditures intended to affect elections to Federal offices.".

EXECUTIVE SESSION

Mr. DOLE. Mr. President, I ask the distinguished minority leader if he is in a position to consider the nomination of Richard T. McCormack to be a member of the Board of Directors of the Inter-American Foundation. If so, I ask unanimous consent that the Senate go into executive session to consider the nomination.

Mr. BYRD. Mr. President, in response to the inquiry of the distinguished majority leader, I can definitely state this nomination has been cleared on this side of the aisle. We are ready to proceed.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

INTER-AMERICAN FOUNDATION

The legislative clerk read the nomination of Richard Thomas McCormack, of Pennsylvania, to be a member of the Board of Directors of the Inter-American Foundation.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of this nomination.

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

LEGISLATIVE SESSION

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

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

ELECTRIC CONSUMER PROTECTION ACT

Mr. ABDNOR. Mr. President, had I voted today on S. 426, I would have opposed final passage of the bill. I cannot, in good conscience, support this bill or any similar legislation until it can be demonstrated to me that the public will indeed be more efficiently served by such legislation.

Supporters of S. 426 have argued that under current law virtually every project currently held by investor-owned utilities will be turned over to municipal applicants. This is simply not true. The fact is that since 1970 there have been only 11 competitive cases out of more than 130 relicensing applications.

Recently, the CEO of Pacific Gas and Electric Co., acknowledged that, even if the law is not changed, "that doesn't mean ipso facto that municipals get to take over the project because * * * FERC applies the preference only if the two applicants are in equally good standing in what they propose to do with the project * * * We would expect to prevail on that basis by showing that our plans for the future development of these projects are superior to those of our competitors."

Although South Dakota currently is not directly impacted by the legislation, my principal concern is over precedents which may develop. I want to be certain that the implications of this legislation are carefully considered to see that they are in the best interests of the public.

Mr. President, I ask unanimous consent that my remarks be entered in the RECORD in connection with the vote on final passage of S. 426.

DEATH OF NORMAN L. CAHNERS

Mr. KENNEDY. Mr. President, many people in the Greater Boston area and elsewhere were saddened by the recent death of Norman L. Cahners. Norman Cahners was a creative and omnipresent force in the business, civic, and charitable worlds. His public spirit, generosity and concern for the enrichment of the cultural, intellectual and artistic dimensions of our society were demonstrated time and time again throughout over four decades of service to Greater Boston and New England. The vast diversity of his interests and his energies was reflected in the numerous prestigious awards he received throughout his lifetime.

To name but a few, he won acclaim for developing innovative procedures for materials handling in World War II; for his dedicated involvement with the Boy Scouts of America; and for his outstanding leadership, achievements and ethical standards in business and in the community.

I ask unanimous consent that the Boston Globe article about Mr. Norman L. Cahner be printed in the RECORD.

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

NORMAN L. CAHNERS

Although he knew he was battling a fatal illness, Norman L. Cahners had hoped to join a Museum of Science group now visiting the Amazon and viewing Halley's Comet. The indomitable drive of this business and community leader, who died last Friday, enabled him to live and travel well beyond the limits of most dreams.

Among the many Boston educational, medical and cultural institutions that Cahners served as a trustee, board member and worker, the Museum of Science was a special challenge, because he felt that he could make a contribution to integrating the work of the institution with community life.

Cahners' skill as a leader first became apparent when he was a top sprinter on the 1936 Harvard track team. During World War II, while serving in the Navy, he developed techniques for the rapid handling of war materiel and started a magazine on materiel-handling that dealt with the transport of all kinds of supplies and goods.

Based on that experience, Cahners began to publish industrial magazines in many technical fields. Today, the company has become the largest publisher of industrial magazines in the world.

In his private life, Cahners often counseled talented young people on career decisions, keeping track of them for years to see what turn their lives had taken.

His business success made possible major contributions to many schools and institutions. With his late father-in-law, Sidney Rabb, he established a professorship in psychology at the Harvard Business School.

Creation of a "climate of excellence" in industry, to enable persons to rise as high as their abilities can take them, was a special interest. Too often, Cahners felt, the human element was neglected by industry leaders.

In a lifetime of exploring how things work and ways to build an environment in which people can work better, Cahners set a path worth following.

UNITED STATES SHOULD SUPPORT AIRCRAFT SALES TO TAIWAN

Mr. WALLOP. Mr. President, Senator GOLDWATER is urging the sale of advanced interceptor aircraft to Taiwan. I agree with him on this issue. I believe the United States must develop a balanced and careful policy for dealing with arms sales to Asia and that the United States has both a legal and moral obligation to support Taiwan.

Mr. President, the administration has a policy of opposing continued Soviet encroachment in Asia. This policy is correct, as far as it goes. However, some factions in the administraton are under the futile illusion that this policy can be implemented by a United States buildup of the mainland Chinese military machine. Some are even attempting to create a strategic alliance with mainland China. This is the very China which just condemned

the United States for self-defense actions in Libya.

Mr. President, it is crucial that the United States protect and defend Taiwan. Building a mainland Chinese military machine with United States weapons and technology is not the way to do it. It makes no sense at all to attempt to build a military alliance with mainland China while neglecting Taiwan, a long-term ally and proven friend.

Mr. President, my colleague, Senator GOLDWATER, has made a cogent case for a United States sale of F-20 aircraft and modern equipment to Taiwan to enable that ally to patrol and defend the sealanes in the Pacific against a dramatic increase in Soviet air and naval activities in that area. I agree with him absolutely on this matter. Taiwan geographically is in a key position in the center of the sealanes and airlanes used by Soviet forces transiting to and from bases in the Soviet maritime provinces and Vietnam. A credible and coherent United States defense policy in Asia must include Taiwan. I believe that the U.S. Senate must devote careful and serious thought to this subject. For this reason, I ask unanimous consent that an article by Senator GOLDWATER be printed in the RECORD.

[From the Conservative Digest, May 1986]

SENATOR GOLDWATER URGES SALE OF NEW AIRCRAFT TO TAIWAN

(By Barry M. Goldwater)

The Republic of China, now on Taiwan, is one of our oldest and best friends. We fought side by side in China during World War II. After the war, this same Ally was literally forced off the mainland by a Communist regime to which our government, in a rather foolish and stupid move, acquiesced. In doing this, nonetheless, we promised the Taiwanese that we would guarantee their freedom and would keep them supplied with appropriate weapons so that they might defend themselves.

This understanding was in great shape until someone in the State Department started talking in China and in the United States about what amounted to a double-cross of Taivan, and this caught the ear of Henry Kissinger. Henry undoubtedly thought that would be a fine idea, and he convinced President Nixon to take steps to start the derecognition of the Republic of China on Taiwan and the recognition of the People's Republic as the only China by admitting the representatives of Peking to the United Nations.

President Carter carried this a step further by abrogating the mutual defense treaty with Taiwan and closing off our formal recognition. Small as it is, Taiwan has the tenth largest flow of exports in the world. It is an economic wonder, and has one of the most modern economies in all of Asia. Yet, incredibly, its representatives are not even allowed in official places in Washington. As shameful as this is, the worst point is that we, as a nation, broke our solemn word to this true and steadfast Ally.

To show how unpopular that betrayal was with the average American citizen, Congress was forced to pass the Taiwan Relations Act. The question now arises, are we living up to our side of this Act? In my humble opinion, being a frequent visitor to Taiwan, we are not.

For instance, we are not selling them the new aircraft they need and want to buy. True, we do supply them with the parts with which they can make a new version of an old airplane. But I have investigated this matter thoroughly, and I can tell you they need far more than old airplanes. We are not doing anything about that, and we should.

When President Reagan came to office, I thought, "Surely this danger to Taiwan will now vanish," because all through his 1980 campaign for President he kept professing his love for, and great loyalty to, the free Chinese people of Taiwan. It didn't take long, though, for even my friend Ronald Reagan to fall under the spell of whoever concocts that witch's brew in the State Department. He joined his predecessors in non-recognition of Taiwan; and, worse still, in not allowing the proper military assistance to that country.

In other words, we have double-crossed an old friend. This friend could make the difference between our maintaining our strong position in the far Pacific, or losing it altogether. The Russians are now making flights over the far Pacific. Not just once in a while, but in regular patterns. And these flights extend down as far as The Philippines. Indeed, the Soviets now occupy Cam Rahn Bay, a huge facility built with American money during the Vietnam War and now being rapidly improved by occupying Russian forces. All of this is very serious.

What, in effect, we have done by our failure to keep our word to the Republic of China on Taiwan is to allow a potential enemy open access to the far Pacific. And let us remember that the perimeter of the Pacific offers the only future for peace in this world. Not only that, but it holds the economic future of the world as well. Adding to the theat is the fact that if we lose the far Pacific we lose our access to the Indian Ocean through the Straits of Malacca. The Russians would then move to control every ocean strait in the world, assuring them of international economic superiority.

I don't like to make this kind of report, but I have been asked by Conservative Digest what I found on my last visit to Taiwan and that part of the world. I am just reporting it as I saw it. We have been derelict in our duties to an old and proven friend. I don't like it one bit, and I think I am joined in this by many Americans.

A TRIBUTE TO MARION EASTERLING

Mr. DENTON. Mr. President, I bring to the attention of my colleagues an article which appeared on March 5, 1986, in the Independent Advertiser in Clanton, AL, about Marion Wesley Easterling.

The article, written by Advertiser correspondent Madge Mullins Wilbanks, chronicles the life of one of Chilton County and Alabama's most outstanding citizens.

As most of my colleagues know, gospel music has held a special place in southern life for decades. The article titled, "Gospel Legend Lives in Clanton," pays tribute to one of America's most beloved gospel song writers.

The songs composed by Marion Easterling have been recorded by America's most famous gospel quartets and have been published in countless songbooks since 1937 when he composed his first gospel song, "Lord, Lead Me On."

Marion Easterling's contributions to America have contributed to our one nation under God concept.

I ask unanimous consent to insert in the RECORD this beautifully written salute to Marion Easterling.

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

[From the Independent Advertiser (Clanton, AL), Mar. 5, 1986]

GOSPEL LEGEND LIVES IN CLANTON

(By Madge Wilbanks)

On October 25, 1973, the Chilton County Chamber of Commerce honored Marion Wesley Easterling "for his accomplishments in the field of gospel music and prestige and dignity brought to our county." The wooden plaque complete with gold mounting is in the home Marion W. Easterling shares with his wife, "Miss Agnes", in Clanton. It is a warm house filled with tributes momentoes of years, pictures of children and the four grandchildren and there is also golden records by the Thrasher Brothers singing songs written by this gospel giant of a song writer who has a part of the Chilton County scene since being born on March 12, 1910, on a farm near the Sunshine Community "Out Refuge Road" to General Francis and Dora Johnson Easterling.

In thinking back over the years, it seems Marion was simply born to gospel music. He attended the public schools in Chilton County and then attended various music schools including the Vaughan School of Music. He studied with a number of famed and excellent private teachers of gospel music schools as Adgar M. Pace, O.L. DeVaughan, W.B. Abert and "Dad Speer" (G.T. Speer) of the famed Speer Family. He also took correspondence courses from New York and Chicago to further his own musical education. With Marion W. Easterling, it was not hard work nor hard study, it was all part of his lifelong goal. . . . to bring gospel music through the media of radio to his beloved Chilton County and to his cherished homefolks . . . and he had done just that in a most exemplary fashion!

He has realized his goal to bring gospel music programming via radio to the people of his home county. He has realized his goal and yet he continues to write and dream . . . an ever-working mind of a composer whom gospel music ranks right up there at the top.

How does he write his songs? "Well, I get a melody or words . . . most often the words first . . . and it may be as long as two years before I write it down, have it copyrighted and send it to the publishers." He is represented by SESAC. Year and years ago he told me that he often sold his songs (all rights and everything!) for as little as $10. I reminded him of that the other day and he remembered. He sold two of his all time big hits for $10 "and I might not even get that" . . . songs like "Standing By the River and Rainbow of Love." Somehow you know however, without him even saying it, that he never has written a song with the hope of making money. He has written songs simply becaue he had the God-given talent to do

this. It is as much as a part of his life as life itself . . . and he, happily, has shared his amazing talent not only with hometown people but his songs are sung "All over the world wherever English is spoken" he says with much just pride all tinged with humility and reverance to the God that gave him the talent in the beginning from life's start on 1910.

Music? All part of life of this man with whom I have personally shared at WKLF Radio most of this time since 1947 when I was there because Joe Phillip Klinner, my best friend, was a disc jockey and since I was hanging around I got on the air playing on that rattling studio piano, "Because", "Ah! Sweet Mystery of Life" and Irving Berlin's beloved, "Always." I was in the ninth grade as was Joe . . . and my days of writing commercials for WKLF Radio was beginning . . . and had begun to continue until this day as has Marion W. Easterling's gospel program . . . how good and kind Marion always was to a little frightened girl who was new at the radio business . . . he was so helpful and I am ever grateful . . . as are many to whom has given so, so much.

His first song to become "a hit" was written in 1937, "Lord Lead Me On." It can be found in all the convention song books. Other "hits" included those especially dear to the heart of this amazing musician: "Standing By the River", "Rainbow of Love", "When He Reached Down His Hand For Me", "When I Wake Up To Sleep No More . . ." the number of songs he guesses he's written "Is around 300 or so I'd say," and he says this with a humbleness that is found in composers of songs that will long outlive their composers . . . songs that, in truth, are timeless and will never cease to be sung by lovers of gospel music, the gospel music of Marion W. Easterling of Clanton, Alabama.

While he was writing all the time, he was also teaching singing schools and doing evangelistic work in Florida as well as in Alabama. At Sunshine Church he had one of the largest Church he had one of the largest singing schools with over 200 students some of the time! The singing schools would be taught every day for seven days in the week. His work has been interdenominational. He has also done editorial work for some leading publishers and, in 1938, was the youngest composer to sign a five year contract with Stamps-Baxter Publishing Company.

Awards? A key to the city of Cleveland, Tennesee in 1969 . . . The Broadcast Media Gospel Award in Nashville in October, 1976. Awards in the hearts of his thousands upon thousands of listeners all these years at WVOK in and later in Clanton at WKLF Radio. For a while he had an early morning show/program of gospel music at WVOK and then would hurry home to do the 11:30 morning gospel show from WKLF Radio! He is in his 39th year of broadcasting with his first radio broadcast coming on WKLF RADIO on Tuesday morning, December 2, 1947 at 11:30 . . . a programming that has continued until the present time . . . unbroken . . . He has done nearly 20,000 radio programs when they are all put together . . . The Guinness Book of Records can find no one to top that number and, after consulting with Marion W. Easterling (upon his request) will wait until he closes out his program to put this verified fact into the Book of Records . . . but the truth is there! As Marion says, with a chuckle, "I'm the worlds oldest D.J.!"

Marion W. Easterling, the composer of gospel songs, shares another life as Marion W. Easterling, husband of Miss Agnes, who was a Hughes before her marriage to Marion. The couple has two sons, Lynn Wesley, a graduate of Samford University teaches in Oak Grove near Hueytown where he lives with his wife, Terry Lynn, and son, Michael Lynn, 15, and daughter Aeryn, 8. As Mrs, Easterling says, "It's a houseful of Lynn's!" And so it is! Lynn Wesley was born in the Chilton County Hospital but that was not the case with second son, Ray Mell, who was born at home and then rushed by the new Martin ambulance to the hospital along with his mother . . . thus the name "Mell" for J. Mell Martin who began Martin's in Clanton in 1921. Ray's wife is named Mary and their daughter, Kim, is a student at the University of Montevallo. She has only 40 percent hearing and was a poster child for the Hearing and Speech Therapy Program under Governor Albert Brewer while he was governor of Alabama. A second daughter, Beth, is 15 years old and a student at Pelham High. Ray went to Troy State and is now employed by Mid-South Company which deals with heavy equipment.

As we are winding down our talking and forth like good and long-time friends will tend to do and with "Miss Agnes" ever near to help take care of this most special composer and credit to Chilton County, he said, "Well I never made to much 'sign', I just wrote my songs." I asked him what he meant by the word 'sign'? He thought a moment and answered, "like making a big name for yourself. . . . I never thought about that. . . . I just wanted to go on writing my songs. . . ." And so he has, and so he has for the world of gospel music to know and cherish and for groups like the Thrasher Brothers, The Florida Boys, The Happy Goodman Family, The Conner Hall Group and Big Jim Waites (dean of bass singers) to make famous as is the name Marion W. Easterling wherever gospel songs are sung and known . . . Yesterday . . . today . . . and tomorrow . . . you know, he has made his very own personal 'sign' after all . . . and what a great, great legacy from "the little man with a million friends, Marion W. Easterling."

SAUDI ARMS SALE

Mr. CRANSTON. Mr. President, earlier today the Senate Foreign Relations Committee heard testimony on Senate Joint Resolution 316, disapproving the sales of arms to Saudi Arabia.

I ask unanimous consent that my statement from this morning's hearing be printed in the RECORD.

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

SENATE FOREIGN RELATIONS COMMITTEE
HEARING ON SAUDI ARMS SALE

(Statement of Senator Alan Cranston)

Mr. Chairman, as the principal sponsor of the resolution against this sale—a resolution now co-sponsored by 63 of my colleagues—I want to outline briefly my reasons for pressing this issue.

I also want to state again, as I have on previous occasions, that my disagreement with the Administration is over means, not ends. Our dispute is not partisan. I opposed a President of my own party when he proposed an arms sale to the Saudis. Nor is our difference personal. We simply have a fundamental disagreement over how best to purse U.S. interests in our relationship with Saudi Arabia.

Senators oppose this arms sale because we do not believe it serves American national security interests to reward nations which consistently thwart American policies. We believe that the United States should demonstrate resolve and courage in standing up to third world dictators and potentates who scorn our interests. And we believe—given the lack of urgent need for this latest shipment of missiles to the Saudis—that this is a very appropriate time to send this strong signal to Riyadh.

The Administration arguments attempting to justify this sale have been very, very weak. They've asserted that it is needed to counter "the Iranian threat", they've argued that it will have favorable impact on our balance of trade, and they've maintained that we need to "get back to business as usual" in arms sales to the Saudi kingdom.

The one point proponents and opponents agree on is that the debate over this arms sale is, indeed, a signal-sending exercise. And a large number of Senators clearly wish to send a signal that the United States expects some minimal concern for our interests, too, as a condition of our friendship.

Over the past thirty-two years, the United States has sold to Saudi Arabia nearly $50 billion worth of arms and defense services. Each time the Saudis have made these sales a "test" of American friendship. Once again the pending sale of missiles is being characterized as a "test" of American friendship.

I want to ask you in all sincerity, Mr. Secretary; "when does America pass the test? When do we earn the right to ask from the Saudis sensitivity to America's basic concerns?"

The Saudis keep wanting us to prove our friendship.

When do they prove their friendship?

Is it impractical to ask that the Saudis stop funding terrorists and their supporters?

Is it unreasonable to ask that the Saudis stop their public support for Colonel Qadhafi?

Is it unrealistic to ask the Saudis to let up on their boycott of American firms and American workers who choose to do business with our ally Israel?

From the 1981 AWACS sale, to the Reagan Plan, to the Murphy shuttle, to the more recent Bush mission, Administration leaders have met with rejection when they sought Saudi cooperation in pursuing three crucial American interests in the Middle East. Republicans and Democrats, and the legislative and executive Branches are absolutely united on those objectives:

1. We seek to combat terrorism and deny terrorists any support or safe harbor;

2. We seek to expand the peace process begun at Camp David;

3. We seek to enhance the economic and military security of our key allies in the region, Egypt and Israel.

But the Saudis have failed to help us in any meaningful way. Worse yet, they have actively opposed us, they have bankrolled terrorists and their supporters including the PLO and Syria and publicly supported Colonel Qadhafi. They have undermined the peace process. They have expanded the Arab boycott of American firms and American workers who choose to do business with our ally Israel. They punish Egypt for making peace with Israel by refusing to restore diplomatic relations.

I know, Mr. Secretary, that the Administration asserts that the Saudis are doing a lot "in private." I've read the State Department's White Paper on how "the Saudis, *within the context of the Arab consensus*, have made constructive contributions to the search for peace" (emphasis my own).

That is not good enough. We have a right to expect from the Saudis more than the lowest common denominator of the "Arab consensus" of which you speak—which still calls for the isolation and annihilation of our allies.

Mr. Secretary, I have a number of questions this morning. But let me first add a personal word.

I do not relish the confrontation ahead.

The Administration's confrontation should be with Riyadh, not with American senators.

I am not happy about the necessity of sponsoring resolutions designed to bar an intended Presidential action.

I have urged for two years that the Administration not proceed with this sale—at least until we get some meaningful support from the Saudis on our anti-terrorism efforts or on the peace process (as the President pledged would be the case in his letter to Senator Baker at the time of the September 1981 AWACS debate).

I renew that suggestion once again. Now is not the time to ship lethal arms to those who stand with terrorists in the Middle East.

PROHIBITING SALE OF SOUTHWEST POWER AND OTHER FEDERAL MARKETING ADMINISTRATIONS

Mr. NICKLES. Mr. President, a move has been underway for some time now for the Federal Government to realize short-term financial gains and forsake future revenues by selling off Federal power agencies, including the Southwestern Power Administration headquartered in Tulsa, OK.

I must rise in opposition to proposals to sell off resources of the Southwestern Power Administration due to the impact such a move would have on Oklahoma industry, agriculture, and individual electric consumers.

With this in mind, I join my colleague from Washington, Senator EVANS, in introducing legislation which would, for a period of 10 years, prevent Federal actions aimed at disposing of power production facilities which generates electricity marketed by Federal Power Marketing Administrations.

Mr. President, the Southwestern Power Administration provides electricity generated from 23 dam sites to customers in 7 States, including Oklahoma. In Oklahoma, an estimated 1 million people, or nearly one-third of the population, receive some portion of their power through the Southwestern Power Administration. Twenty-five rural electric cooperative distribution systems market power obtained from the SWPA.

Rural electric utilities and municipalities that purchase SWPA power serve over 900 manufacturing firms with 56,000 employees which add more than $1.3 billion to the region's economy. Additionally, there are nearly half a million farms in counties served by rural electric cooperatives which purchase power from the SWPA and the production from these farms is estimated to reach $19 billion per year. Mr. President, I cite these figures to demonstrate how deep the power marketed by the SWPA cuts into the area economy.

The sale of Federal hydroelectric projects would result in the trading of lower interest rates that were in effect when the projects were built for higher rates that prevail today. Based on projections obtained from the Oklahoma Association of Electric Cooperatives, the refinancing costs associated with the sale of the SWPA would, over the next 5 years, result in a $272-million cost increase to the seven-State region served by the SWPA. The projections assume the SWPA purchase to be financed beginning at 10.5 percent in 1986 dropping to 6 percent in 1990. As my colleagues can see, relatively conservative assumptions were used to make these projections.

Mr. President, I mentioned electric customers in the seven-State region would be asked to bear an estimated $272 million in increased costs if the SWPA is sold. To bring things home for my colleagues, I would like to break this figure down on a State-by-State basis. Arkansas consumers would face a $48.96 million increase; Kansas, $21.76 million; Louisiana, $21.76 million; Missouri, $87.04 million; Texas, $38.08 million; and Oklahoma, a $54.4 million hike in power costs. Again, these figures are based on refinancing costs alone.

The electricity currently produced by Power Marketing Administrations is sold at rates based on cost, not profit. Under the law, agencies such as the Southwestern Power Administration are obligated to return all cost of construction, operation and maintenance for Federal power production and transmission, including principal and interest. Last year, the agencies returned to the Government more than $1 billion in principal and interest.

Mr. President, I urge my colleagues to support this legislation. The permanent loss of these productive assets would cost the Government billions of dollars in future revenues. I suggest we should not act in such a short-sighted manner.

NUCLEAR TEST MORATORIUM

Mr. LEAHY. Mr. President, on Thursday, April 10, the United States conducted its eighth nuclear underground test since Mikhail Gorbachev announced the Soviet Union's moratorium on all nuclear testing in August of 1985.

The significance of the U.S. test in Nevada is that it will trigger a resumption in Soviet nuclear weapons testing. In the process, the United States will have lost both an important opportunity to resume negotiations on achieving a comprehensive test ban and a valuable first step in concluding a mutual and verifiable arms-control treaty.

The administration's position on joining the Soviet moratorium has been clear. It has been willing to forgo its extensive nuclear weapons testing program to advance the cause of arms control. At the same time, the administration has clearly justified its opposition to a testing moratorium on the basis of inadequate verification and jeopardy to the reliability of the U.S. nuclear weapons stockpile.

Mr. President, let me take a moment to examine these arguments:

First, with regard to verification, the administration has long alleged, most recently in the President's February 1986 Soviet noncompliance report that "Soviet nuclear test activities for a number of tests constitute a likely violation of the Threshold Test Ban Treaty of 1974." As my colleagues will recall, the signed but unratified TTB Treaty prohibits underground explosions with yields exceeding 150 kilotons.

Therefore, the administration, according to the logic of its position, had no intention of rewarding Soviet noncompliance with an existing agreement by acquiescing in a nuclear test moratorium for a limited period of time.

Yet Mr. President, according to recent press reports, the Central Intelligence Agency has changed its procedures for estimating the yield of large nuclear tests because its previous estimates were too high. Seismological experts outside the government have long argued for just such a change. As a result, because of the significant ambiguities involved in seismic monitoring, the Soviet Union's likely violations may have never been violations at all. In fact, under the same methodology used to assess the size of Soviet tests, it is entirely possible that some United States nuclear weapons tests may have themselves appeared to the Soviets to exceed the imposed 150-kiloton limit.

There is no doubt that the huge uncertainties involved in seismic monitoring can today be reduced to acceptable levels with readily available technology for on-site monitoring at Soviet and U.S. test facilities. The question, then, is how to proceed to implement such a program of effective monitoring.

The approach I continue to favor is to simply join the Soviet Union in its

proposed moratorium for a limited period of time, or as long as the Soviet Union continued to refrain from testing in order to negotiate and implement more rigorous nuclear testing verification procedures.

Such procedures could set the stage for a comprehensive test ban and further limitations on testing which could be beneficial in negotiating a new strategic arms agreement. Yet it is clear that this administration has no intention of taking any action which would enhance verification at the expense of nuclear weapons development and deployment.

That is why I recently joined my distinguished colleagues, Senators CRANSTON and HATFIELD, in cosponsoring S. 2220, legislation which would prohibit the use of funds for the testing of United States nuclear warheads so long as the Soviet Union showed similar restraint. Our legislation would not prohibit use of funds for preparations for testing, including all necessary steps short of actual tests, so that we would be ready for an immediate resumption of tests if necessary. Funds would be available for the resumption of United States testing immediately upon evidence that the Soviets had violated the moratorium—a fact which could be verified by the United States intelligence community.

Unfortunately, the failure of this administration to join the Soviet Union in a moratorium has made the Soviet resumption of nuclear testing a self-fulfilling prophesy.

Mr. President, the second argument advanced by the administration in justifying opposition to the test moratorium revolves around the reliability of our nuclear weapons stockpile. It is argued that without testing, the United States could not diagnose and remedy serious shortfalls in the safety of our nuclear stockpile or the reliability of our nuclear weapons.

The fact is, few U.S. nuclear tests have ever been dedicated to specifically corrobrating design flaws discovered in the examination of the nonnuclear components of nuclear weapons. Rather, the overwhelming majority of tests are dedicated to validating nuclear weapons designs and testing new concepts for future weapons development. In short, testing for this administration is all about enhancing nuclear warfighting capability and developing nuclear powered star wars lasers and weapons.

Certainly, the safety and reliability of our nuclear stockpile cannot be ingored. However, this issue can be adequately addressed through an arms control agreement which establishes procedures through which specific very low-yield tests could be allowed for purposes of ensuring the safety and reliability of remaining weapons.

But the key again is the will to eliminate nuclear tests dedicated to the development of new weapons—and the existence of a regime of on-site inspection at respective United States and Soviet nuclear test facilities.

By failing to join the Soviets in a testing moratorium, the United States has closed the door on such possibilities and allowed the Soviets to score a huge propaganda gain.

Mr. President, let me close by reiterating that a huge opportunity has been lost to end the nuclear arms race. Our own security would have suffered minimally from taking the risk of joining the Soviets in their proposed moratorium. Many of our questions regarding the Soviets' real motivation in proposing a moratorium will remain unanswered. As a result, the cause of peace will suffer.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

ANNUAL REPORT OF THE DEPARTMENT OF ENERGY—MESSAGE FROM THE PRESIDENT—PM 133

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with the requirements of Section 657 of the Department of Energy Organization Act (P.L. 95-91), I hereby transmit the Seventh Annual Report of the Department of Energy.

RONALD REAGAN.

THE WHITE HOUSE, *April 17, 1986.*

ANNUAL REPORT ON THE STATUS OF THE NATIONAL WILDERNESS PRESERVATION SYSTEM—MESSAGE FROM THE PRESIDENT—PM 134

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with the Wilderness Act of 1964 (Public Law 88-577), I herewith transmit the Twenty-first Annual Report on the status of the National Wilderness Preservation System for calendar year 1984.

RONALD REAGAN.

THE WHITE HOUSE, *April 17, 1986.*

MESSAGES FROM THE HOUSE

At 10:48 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker appoints Mr. HOWARD and Mr. SHUSTER as additional conferees on the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1128) to amend the Clean Water Act, and for other purposes.

ENROLLED BILL SIGNED

At 12:00 noon, a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 4551. An act to extend for 3 months the emergency acquisition and net worth guarantee provisions of the Garn-St Germain Depository Institutions Act of 1982.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

At 1:49 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House insists upon its amendments to the bill (S. 410) to repeal the Commercial and Apartment Conservation Service, and for other purposes, disagreed to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. MARKEY, Mr. HALL of Texas, Mr. BROYHILL, and Mr. MOORHEAD as managers of the conference on the part of the House.

The message also announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 303. Joint resolution to designate April 1986, as "Fair Housing Month".

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 128. Joint resolution to commemorate the bicentennial of Australia and to honor the April 1986 visit of Australian Prime Minister Robert Hawke to the United States.

At 4:12 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 599. Joint resolution commemorating the twenty-fifth anniversary of the Bay of Pigs invasion to liberate Cuba from Communist tyranny.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and

documents, which were referred as indicated:

EC-2986. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-151 adopted by the Council on March 25, 1986; to the Committee on Governmental Affairs.

EC-2987. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-150 adopted by the Council on March 25, 1986; to the Committee on Governmental Affairs.

EC-2988. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-155 adopted by the Council on March 25, 1986; to the Committee on Governmental Affairs.

EC-2989. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-154 adopted by the Council on March 25, 1986; to the Committee on Governmental Affairs.

EC-2990. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-153 adopted by the Council on March 25, 1986; to the Committee on Governmental Affairs.

EC-2991. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 6-152 adopted by the Council on March 25, 1986; to the Committee on Governmental Affairs.

EC-2992. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of Receipts and Disbursements of the Office of the People's Counsel Agency Fund"; to the Committee on Governmental Affairs.

EC-2993. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Annual Audit of the Washington Convention Center for the Fiscal Years Ended September 30, 1985 and 1984"; to the Committee on Governmental Affairs.

EC-2994. A communication from the Director of the Office of Legislative Affairs, Agency for International Development, transmitting, pursuant to law, the annual report of the Agency under the Freedom of Information Act for calendar year 1985; to the Committee on the Judiciary.

EC-2995. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final funding priorities for HIHR—Research and Demonstration Projects, Knowledge Dissemination and Utilization Projects; to the Committee on Labor and Human Resources.

EC-2996. A communication from the Executive Director of the Committee for Purchase From the Blind and Other Severely Handicapped, transmitting, pursuant to law, the annual report of the committee for fiscal year 1985; to the Committee on Labor and Human Resources.

EC-2997. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final funding priorities for NIHR—Research and Demonstration Projects in Research Training; to the Committee on Labor and Human Resources.

EC-2998. A communication from the Secretary of Education, transmitting, pursuant to law, Final Regulations—College Housing Program; to the Committee on Labor and Human Resources.

EC-2999. A communication from the Secretary of Education, transmitting, pursuant to law, notice of final funding priorities for Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Disabled Individuals Program; to the Committee on Labor and Human Resources.

EC-3000. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the implementation of the Age Discrimination Act for fiscal year 1985; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 280. Joint resolution designating the month of November 1986 as "National Alzheimer's Disease Month."

S.J. Res. 288. Joint resolution to designate the month of May 1986, as "National Birds of Prey Month."

S.J. Res. 289. Joint resolution to designate 1988 as the "Year of New Sweden" and to recognize the New Sweden '88 American Committee.

S.J. Res. 293. Joint resolution to designate the month of May 1986 as "National Child Safety Month."

S.J. Res. 298. Joint resolution to designate the week of October 5, 1986, through October 11, 1986, as "Mental Illness Awareness Week."

S.J. Res. 310. Joint resolution to proclaim June 15, 1986, through June 21, 1986, as "National Agricultural Export Week."

S.J. Res. 312. Joint resolution designating the week beginning April 13, 1986, as "National Medical Laboratory Week."

S.J. Res. 317. Joint resolution to designate the month of November 1986 as "National Hospice Month."

S.J. Res. 318. Joint resolution designating November 1986 as "National Diabetes Month."

S.J. Res. 321. Joint resolution to designate October 1986 as "National Down Syndrome Month."

S.J. Res. 324. Joint resolution to designate the week beginning May 18, 1986, as "National Digestive Diseases Awareness Week."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Kenneth L. Ryskamp, of Florida, to be U.S. district judge for the southern district of Florida;

Joe D. Whitley, of Georgia, to be U.S. attorney for the middle district of Georgia for the term of 4 years.

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. GORTON:

S. 2318. A bill for the relief of William G. Riplinger; to the Committee on the Judiciary.

By Mr. DOLE (for Mr. KENNEDY (for himself, Mr. D'AMATO, Mr. DOLE, Mr. MATHIAS, and Mr. HOLLINGS)):

S. 2319. A bill to provide for the continuation of the Martin Luther King, Jr. Federal Holiday Commission until 1989, and for other purposes; considered and passed.

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 2320. A bill to amend an Act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ARMSTRONG:

S. 2321. A bill to suspend temporarily the duty on d-6-Methoxy-alpha-methyl-2-naphthaleneacetic and its sodium salt; to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself, Mr. THURMOND, Mr. METZENBAUM, Mr. DENTON, Mr. DECONCINI, and Mr. HEFLIN):

S. 2322. A bill to provide for a study of television programming to consider the matter as to what impact, if any, violence on television has on the health of children and adults; to the Committee on Commerce, Science, and Transportation.

By Mr. SIMON (for himself, Mr. THURMOND, Mr. METZENBAUM, Mr. DENTON, Mr. DECONCINI, and Mr. HEFLIN):

S. 2323. A bill to exempt certain activities from provisions of the antitrust laws; to the Committee on the Judiciary.

By Mr. HATCH (for Mrs. HAWKINS (for herself, Mr. HATCH, and Mr. QUAYLE)):

S. 2324. A bill to reauthorize programs under the Domestic Volunteer Service Act of 1973, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. EXON:

S. 2325. A bill to permit a maximum speed limit of 70 miles per hour on any route within the National System of Interstate and Defense Highways; to the Committee on Commerce, Science, and Transportation.

By Mr. HEFLIN:

S. 2326. A bill to protect the name and marks of the Alabama Space Science Exhibit Commission; to the Committee on the Judiciary.

By Mr. GRAMM:

S. 2327. A bill to amend the Low-Income Home Energy Assistance Act of 1981 to specify the method of determining State allotments; to the Committee on Labor and Human Resources.

By Mr. EVANS (for himself, Mr. GORE, Mr. ABDNOR, Mr. BAUCUS, Mr. BUMPERS, Mr. BURDICK, Mr. EAGLETON, Mr. FORD, Mr. GORTON, Mr. HARKIN, Mr. MELCHER, Mr. NICKLES, Mr. PRESSLER, Mr. SASSER, and Mr. ZORINSKY):

S. 2328. A bill to prohibit for a 10-year period the transfer or sale of Federal Power Marketing Administrations or the Tennessee Valley Authority, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. QUAYLE:

S. 2329. A bill to make technical corrections in the higher education title of the Consolidated Omnibus Budget Reconciliation Act of 1985; to the Committee on Labor and Human Resources.

By Mr. COCHRAN:

S. 2330. A bill to amend the copyright law regarding work made for hire; to the Committee on the Judiciary.

By Mr. HEINZ (for himself, Mr. GLENN, Mr. DURENBERGER, Mr. BRADLEY, Mr. KENNEDY, Mr. CHAFEE, Mr. CHILES, Mr. MATSUNAGA, Mr. WILSON, Mr. MOYNIHAN, Mr. RIEGLE, and Mr. DODD):

S. 2331. A bill to amend title XVIII of the Social Security Act to assure the quality of inpatient hospital services and post-hospital services furnished under the medicare program, and for other purposes; to the Committee on Finance.

By Mr. BOSCHWITZ (for himself, Mr. BOREN, Mr. NICKLES, Mr. ABDNOR, and Mr. GRASSLEY):

S. 2332. A bill to provide credit assistance to borrowers of loans made by commercial lending institutions, Farm Credit System institutions, and the Farmers Home Administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER (for himself, Mr. HOLLINGS, Mr. KENNEDY, Mr. THURMOND, Mr. CHAFEE, Mr. BENTSEN, Mr. BAUCUS, and Mr. MOYNIHAN):

S. 2333. A bill to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income pregnant women and children; to the Committee on Finance.

By Mr. THURMOND:

S. 2334. A bill to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the U.S. Government from attempting to influence the U.S. Government or from representing or advising a foreign entity for a proscribed period after such officer or employee leaves Government service, and for other purposes; to the Committee on the Judiciary.

By Mr. DOLE (for himself and Mr. DENTON):

S. 2335. A bill to protect U.S. citizens from terrorism; to the Committee on Foreign Relations.

By Mr. ABDNOR (for himself, Mr. BURDICK, and Mr. PRESSLER):

S. 2336. A bill to protect U.S. cattlemen from imports of live Canadian cattle, and to require the International Trade Commission to conduct a Section 201 investigation of such imports.

By Mr. BRADLEY:

S. 2337. A bill to extend duty-free treatment to certain chemicals; to the Committee on Finance.

By Mr. ROCKEFELLER (for himself, Mr. BINGAMAN, Mr. BYRD, Mr. RIEGLE, Mr. LEVIN, Mr. BAUCUS, Mr. CHILES, Mr. HEINZ, Mr. DECONCINI, Mr. HART, Mr. GORE, Mr. COHEN, Mr. DANFORTH, Mr. PRYOR, Mr. INOUYE, Mr. GORTON, Mr. LAUTENBERG, Mr. LEAHY, Mr. BUMPERS, Mr. METZENBAUM, Mr. MITCHELL, Mr. EXON, Mr. CRANSTON, Mr. EAGLETON, Mr. DODD, Mr. DIXON, Mr. MATSUNAGA, Mr. KERRY, Mr. KENNEDY, Mr. CHAFEE, Mr. MOYNIHAN, Mr. HOLLINGS, Mr. PELL, Mr. BRADLEY Mr. FORD, and Mr. PROXMIRE):

S.J. Res. 327. Joint resolution to provide for the President to report on the status and implementation of the recommendations of the President's Commission on Industrial Competitiveness; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for Mr. HELMS (for himself, Mr. DOLE, Mr. ZORINSKY, Mr. WILSON, Mr. BOREN, Mr. BOSCHWITZ, Mr. DANFORTH, Mr. ABDNOR, Mr. COCHRAN, Mr. EXON, Mr. GORE, Mr. HARKIN, Mr. RIEGLE, Mr. SYMMS, Mr. THURMOND, Mr. GRAMM, Mr. MATTINGLY, Mr. NICKLES, Mr. PRESSLER, Mr. DIXON, Mr. ANDREWS, and Mr. KASTEN)):

S. Con. Res. 129. Concurrent resolution expressing the sense of Congress in opposition to certain import restrictions imposed by the European Community that adversely affect U.S. agricultural exports and urging the President to use to the fullest extent his authority to respond to these practices; considered and agreed to.

By Mr. HOLLINGS:

S. Con. Res. 130. Concurrent resolution to recognize the visit by the descendants of the original settlers of Purrysburg, SC, to Neufchatel, Switzerland, in October 1986 as an international gesture of goodwill; to the Committee on the Judiciary.

By Mr. HART (for himself, Mr. BOSCHWITZ, Mr. DECONCINI, Mr. GRASSLEY, Mr. MOYNIHAN, and Mr. MATHIAS):

S. Con. Res. 131. Concurrent resolution expressing the sense of the Congress that the Soviet Union should immediately provide for the release and safe passage of Naum Meiman and Inna Kitrosskaya-Meiman; to the Committee on Foreign Relations.

By Mr. COCHRAN:

S. Con. Res. 132. Concurrent resolution establishing a temporary joint committee on the budget; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GORTON:

S. 2318. A bill for the relief of William G. Riplinger; to the Committee on the Judiciary.

RELIEF OF WILLIAM G. RIPLINGER

● Mr. GORTON. Mr. President, today I am reintroducing legislation I introduced last Congress for the relief of William G. Riplinger of Seattle, WA.

On November 22, 1977, William G. Riplinger was offered the position of contract price analyst, grade GS-11, step 10, with the U.S. Navy's Supervisor of Shipbuilding, Conversion and Repair (SubShips) in Seattle. He accepted, resigned from a position in private industry, and reported to his new job on December 3, 1977.

On reporting for work, Mr. Riplinger was informed that his actual appointment would be as a grade GS-11, step 1. The U.S. Government admits that, due to administrative error, the Consolidated Civilian Personnel Office [CCPO] of SubShips failed to request authorization to appoint Mr. Riplinger to the 10th step of GS-11. On December 16, 1977, the personnel director of CCPO requested approval from the Seattle regional office, but the request was denied.

On February 8, 1978, the commander of the Naval Sea Systems Command requested approval of the step increase from the Civil Service Commission, which granted approval on March 23, 1978. However, back pay for the period from December 3, 1977 to March 23, 1978 was denied. Mr. Riplinger seeks $1,641.12, which represents the difference between the pay he would have received had he been placed in step 10 of GS-11 as of December 5, 1977, instead of March 23, 1978, and the pay he actually received. He also seeks $182.35 in attorney fees.

Mr. Riplinger initiated litigation to recover this back pay, but was denied relief in Federal court. The Ninth Circuit Court of Appeals noted in its opinion that "all parties admit the correctness of Riplinger's factual recitals, and all should admit the equity of his claim, but it is well-settled that the law provides no relief."

A private relief bill is the only avenue available for Mr. Riplinger to receive the equitable relief he deserves. I therefore urge the prompt and favorable consideration of this legislation.●

By Mr. INOUYE (for himself and Mr. MATSUNAGA):

S. 2320. A bill to amend an act to add certain lands on the Island of Hawaii to Hawaii Volcanoes National Park, and for other purposes; to the Committee on Energy and Natural Resources.

ADDITIONAL OF CERTAIN LANDS TO HAWAII VOLCANOES NATIONAL PARK

● Mr. INOUYE. Mr. President, my colleague, Senator SPARK MATSUNAGA and I are introducing today a bill that addresses the need to acquire a parcel of land immediately adjacent to Hawaii Volcanoes National Park. A parcel of land long listed as the National Park Service's highest acquisition priority in the Pacific area of the National Park System. The acquisition of this roadless, and presently unused, area of superb native ohia and tree-fern rain forest has been a priority because it has been identified by biologists as an ecosystem not now adequately encompassed and protected in the National Park System. Further, and equally important, it contains the habitat of the critically endangered Hawaiian Hawk and the Hawaiian O'u, as well as several other species indigenous to the Hawaiian Archipelago. Congress identified this same parcel as suitable for "potential wilderness" in 1978 when it was found to possess all the necessary attributes for wilderness designation excepting its non-Federal status.

While these considerations are enough to warrant the inclusion of the tract within the National Park, an-

other consideration germane to the merits of acquiring this tract is that the growing of marijuana on lands within this tract poses a serious threat to public safety. The need to keep this illegal activity undetected has motivated some growers to booby trap their patches and to physically intimidate anyone who inadvertently might come upon them. National Park Service vigilance has eradicated marijuana growing within the confines of Hawaii Volcanoes National Park and it is expected that the same vigilance will end marijuana growing in this contiguous land area once it is added to the park.

Over the past 5 years this important tract of land has been the focus of other activities which have led to this call for acquisition that Senator MATSUNAGA and I bring to you today. In early 1982, the owner of this tract of land revealed plans for large-scale geothermal development on the land. Approximately 50 geothermal wells were proposed to be sited 1,000 feet from the park boundary. Four proposed power plants were to be located within 4,000 feet of the park boundary. The State of Hawaii recognizes the need to develop alternatives to nonrenewable energy resources and has emphasized this need through State legislation, the State also recognizes the important of maintaining the integrity of Hawaii's largest national park. Adverse impacts resulting from geothermal emissions, surface disturbance, noise, odor, and vista impairment in such close proximity would include deterioration of native plant and animal communities, fragmentation of the ohia-fern forest essential for endangered native bird survival, degradation of the wilderness quality of the east rift and Kalapana extension areas, and degradation of present and future visitors perceptions of the national park.

At the recommendation of the State of Hawaii Board of Land and Natural Resources, the owner was encouraged to consider a land exchange with the State of Hawaii. At the same time, the State encouraged the National Park Service to find a way of acquiring the tract for inclusion into Hawaii Volcanoes National Park. At that time the tract in question was not considered part of the two-party land exchange proposal. As a logical extension of this type of low cost transaction, the State of Hawaii began to explore the possibility of a three-party land exchange with the Federal Government that would effectively allow the National Park Service to acquire this important parcel if the State and the landowner agreed to move forward with their two-party exchange inclusive of this important tract.

Mr. President, my colleague and I, come before the Senate to urge the Congress of the United States to enact legislation to allow the Department of the Interior to become a third party to this exchange initiative.

It is important to note for the purposes of this bill that Congress recognized the need to adjust the boundaries of Hawaii Volcanoes National Park through the addition of adjacent lands early in the park's history. In 1938 Congress passed legislation that allowed the Secretary of the Interior to add adjacent tracts to the park if, in the discretion of the Secretary, they are judged to be "necessary for the proper rounding out" of the boundaries. While the Secretary has had this discretionary power for close to 50 years, he has been restricted by the provision that allowed acquisition of certain tracts through donation only, including the tract that is the subject of this legislation.

The reasons for limiting the acquisition of this adjacent parcel to donation only have long been forgotten. The possibility that they cease to exist is supported by public acceptance of the acquisition proposal. There is consensus among the people of the State of Hawaii, the landowners, and the National Park Service that the time for acquisition is now at hand. Times have changed and it is incumbent upon us to recognize the need to change with the times. The proposed three-party land exchange is the type of change that is appropriate at this time. Further, Mr. President, in his testimony before the Senate Appropriations Committee in fiscal year 1986 budget hearings, the Secretary of the Interior stated the administration's support of exchanges, when he stated the Department's intent to emphasize the acquisition of lands through means other than Federal appropriations, further citing an example of land exchanges for park lands. In all candor, the time for low cost acquisition alternatives are needed in the context of the Federal deficit.

The benefits emanating from this legislative effort are self-evident. First, the 5,650-acre tract of virgin rain forest would become part of the national park, thus offering protection to endangered species and popular visitor attractions, allowing representation of this unique ecosystem in the National Park System, and facilitating national park administrative control over the land for purposes of public safety. Second, geothermal development could proceed in an area well removed from the presence of the park, thus allowing geothermal development to proceed immediately without the onus of continued hearings, protests, appeals, and threats of court actions which have held development to a standstill over the past 4 years. Most importantly, it eliminates the need to seek major appropriations from Congress for land acquisition of the land at a time when budget considerations are on the minds of all of the Members of this body.

Mr. President, the benefits of this piece of legislation are far beyond the normal scope of a bill of this nature. I urge the support and efficient passage of this bill by my colleagues.

Mr. President, I request unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2320

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

SECTION 1. ADDITION TO HAWAII VOLCANOES NATIONAL PARK.

The Act entitled "An Act to add certain lands on the island of Hawaii to the Hawaii National Park, and for other purposes" (52 Stat. 781; 16 U.S.C. 391b) is amended by adding at the end the following new section:

"SEC. 5. (a) Notwithstanding any other provision of this Act, the Secretary of the Interior (hereinafter referred to as the 'Secretary') is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange the land and interests therein comprising approximately 5,650 acres and identified as tract number 118/22 on the map entitled 'Recommended Land Acquisition', in the Hawaii Volcanoes National Park Land Protection Plan as recommended May 17, 1985, which plan shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior, Washington, D.C. and the Office of the Superintendent, Hawaii Volcanoes National Park, Hawaii.

"(b) In exercising his authority to acquire the real property referred to in subsection (a) by exchange, the Secretary may accept title thereto and in exchange therefor he may convey to the grantor of such real property title to any United States Government real property under his administrative jurisdiction, other than real property within or administered as a part of the National Park System, in the State of Hawaii which he determines is suitable for such exchange. The values of the properties exchanged shall be approximately equal, or if they are not approximately equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require. In no circumstance shall an equalization payment exceed one-fourth (25 percent) the appraised value of the real property referred to in subsection (a). Any money paid to the Secretary shall be deposited as miscellaneous receipts in the Treasury of the United States.

"(c) Real property owned by the State of Hawaii or any political subdivision thereof may be acquired only by donation or exchange.

"(d)(1) In order to facilitate the acquisition of the real property referred to in subsection (a) by exchange, notwithstanding any other provision of law, upon request of the Secretary, the Administrator fo General Services shall transfer to the Secretary, without reimbursement, administrative jurisdiction over any excess or surplus United States Government real property in the State of Hawaii for purposes of such an exchange.

"(2) For purposes of a land exchange with the State of Hawaii, the Secretary shall consult with the State of Hawaii in the process of identifying suitable exchange lands belonging to the United States Government.

"(3) For the purposes of a land exchange with the State of Hawaii, real property owned by the United States Government and selected for use in a land exchange shall not be from among those lands ceded to the United States Government.

"(e) The real property acquired by the Secretary pursuant to this section shall be administered by the Secretary as part of Hawaii Volcanoes National Park, subject to the laws and regulations applicable to the Park.

"(f) There is hereby authorized to be appropriated such sums as may be necessary to carry out the acquisition of real property under this section.".●

Mr. MATSUNAGA. Mr. President, I am today joining my senior Senator from Hawaii, Mr. INOUYE, in introducing S. 2320, a bill providing for authority to exchange Federal lands for State and private lands. In doing so, I am reminded that the ancient Hawaiians were noted for the importance which they placed on working together, a practice called Laulima. The Hawaiian economy was comprised of small communities, each specializing in the cultivation or gathering of a few staple products. Thus, the communities were dependent upon one another for provisions which they did not produce but needed. This interdependence necessitated cooperation on the part of each community. Without it their survival was in jeopardy.

The bill which my distinguished colleague from Hawaii and I are introducing today is a modern example of the kind of cooperation which existed among the ancient Hawaiians. There are three parties involved in the proposed land exchange described in S. 2320, amending an act to add certain lands on the island of Hawaii to Hawaii Volcanoes National Park. These parties include the State of Hawaii, the James Campbell Estate, and the U.S. Government via the National Park Service. All parties involved are supportive of our proposal.

The parcels of land in question include: First, State-owned lands in the Kilauea East Rift Zone; second, James Campbell Estate-owned land at Kahauale'a adjacent to the Hawaii Volcanoes National Park; and third, excess or surplus U.S. Government real property in the State of Hawaii.

Each of the concerned parties in the proposed land exchange has a special interest in a particular parcel of land, but acquisition of that particular parcel is dependent upon the expressed agreement of the other two parties. Just as the ancient Hawaiians found themselves being dependent upon neighboring communities, the parties involved in S. 2320's proposed land exchange find themselves dependent upon the others in order to consummate the exchange—an exchange which should prove to be beneficial to all parties involved.

The State-owned lands in the Kilauea Middle East Rift Zone is of interest to the James Campbell Estate because they have been designated by the State's board of land and natural resources as a geothermal resource subzone and the estate would like to conduct some geothermal exploration and development there.

The Campbell Estate-owned land at Kahauale'a includes a parcel referred to as "tract 22." Tract 22 is a land parcel adjacent to the Hawaii Volcanoes National Park which has been of considerable interest to the National Park Service for some time. The Land is a virgin 'ohi'a and fern rainforest and has been identified by the Park Servie as its No. 1 acquisition priority for protection of the Thurston Lava Tube and Chain of Craters Area. Tract 22 also serves as the natural habitat of at least nine different endangered species, inlcuding the rare Hawaiian 'O'o bird.

The excess or surplus U.S. Government real property in the State of Hawaii which would be included in the proposed three-party exchange has yet to be identified—not because there is none available, but because the State hopes to be able to discuss and identify potential properties with the Federal Government and come to a mutual agreement on them.

To date, the State of Hawaii has consented to exchange its land from the Kilauea Middle East Rift Zone for the Campbell Estate-owned land at Kahauale'a including tract 22. However, this consent was given on the condition that the Federal Government enters into the exchange as a third party. Achieving this, tract 22 would then be transferred to the National Park Service.

The James Campbell Estate has consented to the exchange and has urged the inclusion of tract 22 in order to facilitate its acquisition by the National Park Service. It is important to note here that the enabling legislation for Hawaii Volcanoes National Park specifies that even though the tract is within the authorized boundaries of the park, the land can only be acquired by donation.

Furthermore, it should be understood that in 1983, the State of Hawaii conducted a statewide review of geothermal resource lands and in December of 1984 its board of land and natural resources rendered a decision and order [D/O] giving conditional approval for the designation of a portion of Kahauale'a as a geothermal resource subzone. The D/O also requested that the Campbell Estate investigate and consider a land exchange of State-owned lands to the north of Hawaii Volcanoes National Park and Kahauale'a, pending the outcome of the D/O conditions. Thus, whether or not the land exchange between the estate and the State of Hawaii takes place, a major portion of Kahauale'a will be designated a geothermal resource zone.

Of greater importance, since the State's consent for the land exchange is dependent on the participation of the Federal Government, the integrity of Hawaii Volcanoes National Park is dependent on legislative action that this Congress takes to involve the Federal Government in this land exchange process. Lacking this, the valuable tract 22 will remain in the possession of the Campbell Estate and potential development threats to Hawaii Volcanoes National Park will not have been effectively removed.

Mr. President, earlier I spoke of the virtues of the Hawaiian practice of Laulima, the spirit of cooperation and working together. It is on that note that I urge expeditious approval for Federal involvement in the proposed three-party land exchange. The other two parties are dependent on participation of the Federal Government. Federal law currently prohibits acquisition of certain parcels of land except by donation and all that is lacking here is congressional action to mandate Federal Government participation in what appears to be a mutually beneficial process for all concerned. As we say in Hawaii, "E ho'olaulima kakou"—Let's work together to make it a reality.

By Mr. ARMSTRONG:

S. 2321. A bill to suspend temporarily the duty on d-6-Methoxy-α-methyl-2-naphthaleneacetic acid and its sodium salt; to the Committee on Finance.

TEMPORARY SUSPENSION OF DUTY ON NAPROXEN

● Mr. ARMSTRONG. Mr. President, today I am introducing legislation to temporarily suspend the duty on naproxen and naproxen sodium, chemicals used in prescription drugs here in the United States. The first stages of these chemicals are manufactured in the United States and are then shipped to the Bahamas and Ireland for the final stage of manufacture. The products are finally shipped back to the United States for distribution.

Current importations of these products are duty free under the Generalized System of Preferences and/or the Caribbean Basin Initiative or duty refundable under drawback. Duty paid in 1985 was reported as $1.55 million, however, net duty was less than $400,000 after drawbacks. Considering this fact, a temporary duty suspension will create no appreciable loss of revenue to the Treasury.

The manufacturing process as well as the products affected by this legislation are patented in the United States and the patent will not expire

until 1992. As drafted, the duty suspension will end in 1989. Therefore, temporarily suspending the duty will harm no other domestic producers since no others exist for these products.

The processes involved in the production of naproxen and naproxen sodium comply fully with all FDA regulations, requirements, and inspections. In addition, these products were granted eligibility for duty free status in the Bahamas in 1981. At the time of ITC's review, no controversy arose with respect to these chemicals.

Currently, duty drawback procedures are time consuming and costly. They necessitate extensive recordkeeping by the importer as well as a significant expenditure of time by U.S. Customs in entry processing and audit procedures. Due to the lack of audit staff at Customs, the backlog of unaudited drawback entries continues to grow. Therefore, the passage of this legislation to temporarily suspend the duty on these noncontroversial products would result in a savings of time and resources both to the Government and the importer without any detriment to domestic interests and little, if any, net loss of revenue.

I urge my colleagues to favorably review this legislation.●

By Mr. SIMON (for himself, Mr. THURMOND, Mr. METZENBAUM, Mr. DENTON, Mr. DECONCINI, and Mr. HEFLIN):

S. 2322. A bill to provide for a study of television programming to consider the matter as to what impact, if any, violence on television has on the health of children and adults; to the Committee on Commerce, Science, and Transportation.

S. 2323. A bill to exempt certain activities from provisions of the antitrust laws; to the Committee on the Judiciary.

TELEVISION VIOLENCE

Mr. SIMON. Mr. President, I am introducing today two bills cosponsored by Senators THURMOND, METZENBAUM, DENTON, DECONCINI, and HEFLIN, that deal with the problem that is a major problem in our country, and that is television violence. According to the Nielsen index, the average American child watches 18,000 television murders before he or she graduates from high school. We have reports from the Surgeon General of the United States, the National Institute of Mental Health, the American Psychological Association, and American Academy of Pediatrics, all saying we are doing harm to ourselves. Even the Screen Actors Guild has passed a resolution saying we have to do something about violence on television.

I got interested in this, frankly, back a couple of years ago. I checked in a motel—and all of us who are in the U.S. Senate spend more time in motels than we like to spend—I checked in and turned on the television and all of a sudden in front of me, in living color, someone was being sawed in half by a chain saw. And I have to tell you it bothered me that night. I could not help but think what happens to a 12-year-old, what happens to a 10-year-old.

It is clear that we have a problem. All of these studies all show the same thing. The only study that shows television violence does not do any harm is one authorized by NBC. It is a little bit like the Tobacco Institute research showing cigarettes do not do any harm. It is slightly suspect.

The American Academy of Pediatrics' Policy Statement on Children, Adolescents, and Television finds that:

> Repeated exposure to televised violence promotes a proclivity to violence and a passive response to its practice.

In an article in the Pediatrics magazine, Dr. James Holroyd wrote:

> In one study, children who had watched the violent television program were found to be more likely to hurt another child than were those who had watched a nonviolent program. In nonlaboratory settings, children have injured themselves by imitating behaviors viewed on TV. Another study suggested that children may learn to perceive aggressive behavior as normal and acceptable. Other studies have shown that these findings persist even when factors such as family background are taken into account. In a study of 158 elementary school children from a middle-class suburb, children who watched more violent television programs were rated by their teachers as less cooperative, less successful in interpersonal relationships and less happy; these findings were statistically significant regardless of the children's age, sex, social class, IQ or parents' television viewing habits.

In another article some months later in the same magazine, Drs. Robert Wharton and Frederick Mandell, among other things, point this out:

> . . . 35 young men between the ages of 8 to 31 years have killed themselves playing Russian Roulette while imitating a scene from the movie, " 'The Deer Hunter,' which they had seen on television." "The pain of victims and anguish of relatives are rarely portrayed. Thus, the child learns that violence may be a quick and easy solution to conflicts while being deprived of any opportunity to feel empathy for the victim."

While these studies have primarily dealt with what happens to children, there have also been studies of what happens to adults. First of all, when you ask adults who watch television a great deal what they estimate as the incidence of crime, the estimates are way above the reality, so that adults who watch television a great deal end up with a great deal more fear of crime than reality suggests should be the case.

Television could appeal to either the best in us or the worst in us. And when we have too much violence on television, it appeals to the worst in us.

The bills that I have introduced basically permit an exemption from the antitrust laws so that the television networks and cable and the independents can get together to establish guidelines. It does not call for censorship. I am an old civil libertarian. I do not believe in moving in that direction. But I think we have to recognize that we have a serious problem.

What some people have suggested is, "Well, if violence is so bad, then we are going to have to also have some standards on the news." The reality is that violence on the news is a very different thing, because violence on the news shows reality and it shows the good guys as well as the bad guys suffering form violence. What happens on television entertainment is that the heroes and heroines, no matter what they do, they do not suffer greatly, while the villains are the people who suffer. And so, since we all identify ourselves as the good guys, we think, by example, the violence and the problems are going to be on the other side. The reality is if we reduce TV violence we are going to reduce crime in our country. I think that is the clear lesson from the studies that have been made.

I hope this body will consider this bill and move rapidly in this direction. I ask unanimous consent, Mr. President, to have printed into the RECORD articles from the New York Times and also the Chicago Sun Times on this subject.

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

[From the New York Times, June 5, 1985]

VIOLENCE ON TV SPURS INCREASED ADULT SUPERVISION

(By Nadine Brozan)

The show is violent but the children are determined to watch, so what is a parent to do? Turn off the televised beatings, murders, knives, guns, chains, fires, cars hurling off cliffs and victims being thrown out of airplanes, or simply turn away? Although definitive links are hard to establish, psychologists and other authorities in the field generally accept that watching violence on television can affect the way children view the world and the way they relate to others, that it can anesthetize their responses to cruelty and suffering or make them excessively fearful.

Indeed some experts feel the connection is so strong that, as Arnold Kahn, administrative officer for social and ethical responsibility at the American Psychological Association, put it: "The debate over the effects of violence on television watchers is like the debate over cigarette smoking and cancer."

The association is the latest organization to join the National Institute of Mental Health, the Surgeon General, the National Parent-Teacher Association and others in warning parents to monitor their children's viewing habits. Recently, the American Psychological Association issued a resolution asking parents to do just that and asking the broadcasting industry to reduce violence in programs.

Yesterday in Washington, Senators Paul Simon, Democrat of Illinois, and Arlen Specter, Republican of Pennsylvania, sug-

gested to a hearing held by the National Council of Churches several tactics that could be used to protect children from violence and sex in television and movies without abridging Americans' right to free speech. The council, with 31 member churches covering 40 million people, held earlier meetings in New York and Hollywood on the subject and said it will issue a report in the fall on its findings.

Senator Specter said boycotting products advertised on these shows would be a "traditional and nonobjectionable" way to bring about change. He also raised the possibility of improved "lock-boxes" to screen out certain television channels, and tax incentives for producers who design programs especially for children.

Senator Simon proposed that certain shows might carry a warning to steer parents away from programs. Peggy Charren, president of Action for Children's Television, a citizens' group working to improve children's television, said she favors legislation that would require each station to air five hours a week of programming designed to enhance children's education.

"ACT believes it is the responsibility of parents, not lawmakers, to keep their children away from adult programs they find inappropriate," she said. "But parents cannot guide their children to suitable alternatives if those alternatives do not exist."

Still, recognizing the potential harm in television violence is one thing; many parents have found that it is another matter altogether to keep children from watching the shows all their classmates discuss—"Miami Vice," "Airwolf," "A-Team," "Fall Guy," Magnum, P.I." and "Matt Houston," for example, as well as cartoons whose heroes battle and defeat all villains, and wrestling matches, which seem to be particularly popular among youngsters and many adults today.

According to an informal survey of parents in the metropolitan area, responses run the gamut from removing the set from the home to permitting children to be the sole arbiters of what they watch. Most parents seem to take a position somewhere between the two poles, and for each family the line of acceptable television fare falls in a different place.

Thomas Levy, for example, does not subscribe to cable television because it adds to the violence already on the screen. Diane Hockstader lets her 11-year-old daughter watch pretty much what she wants, as long as it does not exceed an hour a day during the week. Randy Gottesman-Smolian once taped a cartoon of "Garfield" the cat, after her 3-year-old son seemed scared of an animated panther, and decided that for him, the "Garfield" show was unsuitable. Meanwhile, Nancy Gallin worries about violence on news programs and in documentaries.

How a family can progress from total abstention from television to a fairly permissive stance is typified by the Reilly family of Manhattan. The parents, T. Gorman and Janice Reilly, did not own a set until their son Justin, now 12½ years old and a student at Hunter College High School, was in first grade. "Then he began to plague us for one because he found that he was literally a social outcast," Mrs. Reilly said. "He had no notion of what the other children were talking about. He could not carry on conversations with them about the 'heroes.' Superman, Batman and the like. He was so adamant that we gave in and got a set for Christmas."

Now, Mrs. Reilly says, she is concerned about the violence witnessed by Justin, and to a lesser degree, by her younger son, Gabriel, 3½. "So many of the programs that Justin likes are violent," she said. "He used to sleep late Saturday mornings, now he makes sure that he's had breakfast and is up in time to watch wrestling. It's a hot commodity at school." Why, she was asked, had she capitulated? "Because he took such a strong stand and because he's cooperative and reasonable," she said. "And, taking the bigger picture, he really doesn't have much time to watch." Still, the doubts linger. "Television hasn't affected his behavior," Mrs. Reilly said, "but sometimes he laughs hysterically at violent actions and that disturbs me."

All the parents interviewed agreed that it takes tenacity to enforce rules and resist imploring. "We've tried to impose a time limit of one hour a day," said Mr. Levy of Pleasantville, N.Y., "but that works better in theory than in practice." Although he does worry about violence on television and has noticed his sons, Arthur, 14, and Douglas, 12, imitating television programs and characters in their play, he said: "We are not all that careful. We don't do any precreening other than reading reviews. We don't censor what they watch, they do see 'A-Team' and Knight Rider,' but we don't have cable because we would lose control even more."

The choices are limited by the boys' bedtimes, 9 and 9:30 P.M. "Most of the worst shows tend to be on later," Mr. Levy said. "Still, we should probably be more assiduous, but there are so many things to get on them about. We do what we can in the context of our lives and our life styles."

Nancy Gallin, who has seven children ranging in age from 16 years to 2 months, said she is more concerned about the news. "The only one of my children who watches anything else objectionable is Joshua, who is almost 15, and he watches 'Miami Vice' as end-of-the week relaxation," she said. "But occasionally during the news, I say the little kids, the ones under 11, must leave the room. You see children dying in fires, and I find myself having to remind them that most people are good parents who love children."

Margaret Howard, mother of a 14-year-old daughter and twin sons, age 8, said: "My greatest claim to fame is that I've never let my younger children watch 'A-Team.' And 'Knight Rider' is their favorite show, but they've only seen it at a friend's house. I sometimes think that the reason they like violent programs is that it's something they don't have to share with adults, the way they do with 'The Cosby Show,' so they can have the programs all to themselves."

"The rule about excessively violent shows is 'In this house, you don't watch it,'" Mrs. Howard said. "I try not to have lots of nos, but the ones I do have are absolutes. I have no shred of doubt that I am doing the right thing."

And yet, even she has given in. "They do watch cartoons Saturday morning and I don't say no because I'm weak," Mrs. Howard said. "They don't watch TV during the week and I can't be totally rigid." She also follows a course advocated by many experts. "I make it clear," she said, "that there are alternatives, that they can watch other programs or rent video films."

Some parents use television violence as an opportunity for family discussions on human relationships, on sensitivity, on the distinctions between reality and fiction.

Rarely do Fred and Joan Bondy allow their 12½-year-old twins, Matthew and Jessica, to watch programs of which they disapprove. When permission is given, however, Mrs. Bondy said: "We say, 'If you must watch, then we'll watch with you,' and we point out the improbabilities. I have told them, for instance, that in the Miami Police Department, the police do not have yachts, sports cars, pet alligators, they do not enjoy the night life. I impress upon them that 'Miami Vice' is simply not reality."

Then there is the approach taken by a Manhattan mother of two children, ages 11½ and 8, who did not want her name divulged. "I figured that once they went to nursery school and found out there was something other than Channel 13 it was all over," she recalled. (Channel 13 is the local public television station in the New York area.) "And sure enough, the first day at nursery school, my daughter ran around screaming, 'Batman, Batman.' It didn't matter what I allowed because other influences would work their way in; I couldn't prevent exposure to nonpositive television."

"I took the tired way out," she said, "the single-parent way out, the path of least resistance."

But she also believes that viewing overt violence is not as harmful as more subtle forms of maltreatment. "How about Archie Bunker as a role model? Does an 8-year-old realize that he is satirical?" she asked. "I would rather have them watch James Bond than 'The Love Boat,' in which three different romances come out perfectly with no effort. I think that's more destructive."

[From the Chicago Sun-Times, Apr. 10, 1986]

PROGRAMMED TO KILL

(By Daniel Ruth)

Leslie Shearer and Richard Clark were buried the other day. They were two unwitting actors in a 36-hour, all-too-true drama starring John Pasch Jr. in the biggest role of his life.

For the last decade, police and neighbors note, the unemployed 57-year-old recluse has lived a lonely existence in his DePaul area apartment. He was a citizen of another world, another reality; a regular customer at the theater of the absurd—television.

One week ago, Pasch allegedly gunned down his landlord—the 45-year-old Shearer—and Chicago policeman Clark, 48, who had arrived to investigate reports of a shooting. Pasch then fled to the apartment of Jean Wiwatowski at 1427 W. Lill and barricaded himself inside with the elderly woman.

As police surrounded the building in what would become the longest hostage crisis Chicago history, the 300-pound Pasch calmly ensconced himself in an easy chair and proceeded to watch television, a friend to the friendless.

By all accounts, Pasch was "addicted" to television, his only source of solace and reality for the last 10 years. And several experts on the psychology of television overexposure, especially violent programming, suggest Pasch subconsciously viewed the Lill Street standoff as a possible extension of the vicarious life he lived through the screen.

"It looked like his whole life was around that TV," said Area 6 Cmdr. Edward Wodnicki.

"He was upset at being disturbed," Wodnicki said, adding Pasch seemed more composed and calm when police called only during commercials.

Indeed, Police Department negotiations timed their contacts with Pasch to commer-

cial breaks in programs he was watching, which included the movie "Battle of the Bulge" and the series "Miami Vice."

During the course of the 36-hour ordeal, the only demand Pasch made to police was to have the current edition of TV Guide sent into the house.

If not for the loss of life, the standoff with Pasch and his curious indifference to armed police circling the house would seem almost comical.

But the Pasch case sadly speaks to the potential volatile influence that excessive, long-term television viewing can exert on extremely lonely and depressed psyches.

"We're on real thin ice as to whether this guy had any vestige of sanity," said Ken Howard, a clinical psychology professor at Northwestern University. "I would imagine he had a sense of having killed someone in the [same] sense that Don Johnson kills anybody on 'Miami Vice.'

"I think he was honestly shocked [after the shootings of Shearer and Clark] that there wasn't a commercial.

"Obviously he's got serious emotional problems." Howard said, adding that the stability of characters Pasch viewed on television may have become reference points for his own stability. "That became his reality—the people he was watching. He knew what was there [on television] and he could depend upon it and it overwhelmed whatever sense he had," Howard said.

In 1972 and in an updated 1982 report, the U.S. surgeon general's office concluded there is a link between excessive exposure to television violence and aggressive behavior. The average viewer is exposed to 13 acts of violence and hour on television, ranging from murder and rape to pushing and shoving, said Thomas Radecki, a psychiatrist and chairman of the National Coalition On Television Violence, based in Champaign.

Radecki said a recent California study indicated that when normally aggressive adult males reduced their exposure to television violence to between 10 and 15 hours a week, they also experienced a 35 percent decline in the times they lose their tempers.

The average American child witnesses 18,000 television murders before he graduates from high school, said Sen. Paul Simon (D-Ill.), who next week will introduce a bill to reduce the level of violence on television.

"There's no question that we, through constantly watching violence on television, accept the fact of violence in our lives much more easily," Simon said.

"Television is a permit for murder," Radecki said. "It makes it look easy." At the same time, he said the profusion of violence on television "teaches us to deal with conflict—with violence," thus creating "a culture of violence" in American society.

In 1977, Miami attorney Ellis Rubin attempted to defend 15-year-old Ronnie Zamora against murder charges by arguing Zamora was induced to kill his next-door neighbor because the boy was addicted to television.

Called the "Kojak defense," Rubin argued that Zamora, a fan of "Kojak," saw himself as the TV detective when he fantasized his neighbor's house was being broken into. Zamora entered the house and when the neighbor unexpectedly returned, Rubin argued, Zamora then assumed the identity of the intruder and shot the neighbor. He stood over the body and told her it was all right to stand up, Rubin said.

Rubin lost the case and Zamora was sentenced to life imprisonment. But since then, the "Kojak defense" has become a more common legal tactic.

"My defense was a certain element of insanity can be induced by excessive viewing," Rubin said.

Simon's proposed legislation would attempt to reduce those excesses, by permitting a waiver in antitrust laws to allow the three television networks, cable networks and independent television stations to collaborate on a code of standards to regulate violence in programming.

"If the networks can get together and adopt a common code, then in fact we can reduce violence on our television screens and reduce the violence in our society," Simon said.

Radecki is not so sure. "Violence segregates the viewing public," he said, adding violence attracts predominantly male viewers, who then can be targeted for specific advertising messages. "We've taught the males in our society to be violent so we can sell them beer and automobiles."

At the time of the Zamora trial, Miami psychologist Arthur Stillman was hired by the state to refute Rubin's defense. But now, Stillman believes excessive television viewing can influence behavior.

"If a person sits that way [watching television for long periods of time], his whole life becomes what he sees on television," Stillman said. "I'm sure what he [Pasch] went through, he saw [on television].

"They've lost the ability to discern between fantasy and reality," he said.

Excessive exposure to anything, including watching television, ultimately will affect a person's perception of reality, said George Gerbner, a nationally recognized expert on the influence of television on American society.

But Gerbner was less inclined than his colleagues to suggest that excessive viewing of violence can directly beget violence.

Instead, Gerbner argued that people who isolate themselves through their televisions tend to grow more insecure and distrustful of others.

And when that insecurity is threatened, the person may lash out because of fear, he said.

During the Lill Street siege, a neighbor from the same apartment building told Sun-Times columnist Tom Fitzpatrick that Pasch "almost panicked when I tried to build a darkroom in the other half of the basement. He was afraid I was going to cut off his escape route in case of a fire. I don't know what the technical term is for being afraid to go outside, but that's what is wrong with him."

For 36 hours Pasch sat and watched television, while the police outside sat and watched Pasch. The screen "Kept his [Pasch's] mind off what was going on," Cmdr. Wodnicki said.

At last, after a lonely existence in a filthy apartment, John Pasch was a leading man as local television news accounts chronicled the standoff. "He loved every minute of it." Wodnicki said. "He got attention. He got something he never got for a long, long time.

"We were giving him exactly what he wanted," Wodnicki said.

The irony of the Pasch case is that he likely will spend the rest of life in a mental institution or a prison cell, places where days turn into nights with unending monotony. Places were there is little to do, except watch television.

Mr. SIMON. Mr. President, I also urge my colleagues in this body to take a look at these bills to see if they would maybe want to add their names as cosponsors. I am pleased the Presiding Officer, Senator DENTON, is one of the sponsors, along with Senators THURMOND, METZENBAUM, HEFLIN, and DECONCINI. I think we show a broad spectrum of interest in this problem.

Mr. President, I ask unanimous consent that the bills be printed in the RECORD.

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

S. 2322

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Communications Commission shall conduct a study for the purpose of determining the impact, if any, that violence on television, including cable, has on the mental or physical health, or both, of children and adults. The Commission shall report the results of such study, together with its comments and recommendations, to the Congress prior to the expiration of the twelve-month period following the date of this resolution becomes law.

S. 2323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) actions specified in section 2 shall be exempt from certain provisions of the antitrust laws of the United States.

(b) FOR PURPOSES OF THIS ACT—

(1) "antitrust laws" has the meaning given such term in the first section of the Clayton Act, and the Federal Trade Commission Act;

(2) "broadcast station" means a television broadcast station or a cable system.

(3) "person in the television broadcasting industry" means a person who is the chief executive officer of a television network, and the presidents of the National Cable Television Association and the Association of Independent Television Stations, Inc., or their designees; and

(4) "television broadcast" means any program broadcast by a broadcast station.

SEC. 2. The antitrust laws shall not apply to any joint agreement by or among persons in the television broadcasting industry, or to any joint action in reviewing, considering, evaluating, or taking action with respect to any television broadcast or any material intended for any television broadcast if the purpose of such agreement or action is to determine or alleviate the negative impact, if any, of violence in such television broadcast material.

SEC. 3. The exemption provided in section 2 shall not apply to any joint agreement, understanding, or action which is intended to result in a boycott of any other person in such industry.

Mr. DENTON. Mr. President, I rise in support of the legislation introduced by my distinguished colleague from Illinois [Mr. SIMON], to address the serious problem of television violence. I commend the good Senator for his leadership in this area and am pleased to join as an original cosponsor of this effort.

Mr. President, the National Institute of Mental Health, the Surgeon General of the United States, the American Psychological Association, the Ameri-

can College of Pediatrics, as well as other groups, have all demonstrated a causal connection between violence on television and an increase in behavior disorder and greater violence on the part of the viewers. The problem is particularly troublesome in the case of juveniles.

In fact, in a hearing conducted by the Senate Judiciary Subcommittee on Juvenile Justice in 1983, testimony was received from the juvenile leader of the Guardian Angels, a New York City youth gang, that the increase in youth crime was directly related to the lack of role models or to the presence of negative role models on television and the movies. The juveniles found themselves emulating the antisocial and violent behavior of the television characters. They also found themselves becoming desensitized to violence.

Mr. President, while the legislation offered by Senator SIMON will not be a cure-all for the complex problem of television violence, it does represent a very important positive step in the right direction. The legislation will permit the television networks, the independents, and cable television companies to meet and take action to determine and alleviate the negative impact of violence in television broadcast, without violating Federal antitrust laws. Federal antitrust laws will remain in effect for all other activity.

The legislation also provides that the Federal Communications Commission shall conduct a study of television programming to consider as to what impact, if any, violence on television has on the health of children and adults. I fully expect that this study could collect, review, and update past studies which attempted to address this complex issue.

Mr. President, this legislation represents a reasonable approach toward addressing the serious problem of television violence. I urge my colleagues to support the legislation.

Mr. HATCH for Mrs. HAWKINS (for herself, Mr. HATCH, and Mr. QUAYLE):

S. 2324. A bill to reauthorize programs under the Domestic Volunteer Service Act of 1973, and for other purposes; to the Committee on Labor and Human Resources.

DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS

● Mrs. HAWKINS. Mr. President, I rise today to introduce legislation that will reauthorize an agency that is in the forefront of tapping the vast resources of our Nation's volunteers.

ACTION is the Federal agency charged with the mission of fostering and expanding voluntary citizen service and public and private organizations in solving vital problems confronting the poor, the disabled, the elderly and young with special needs. The most widely known of ACTION's programs are VISTA, Volunteers in Service to America, and the Foster Grandparent Program.

Since its inception in 1973, more than 80,000 VISTA volunteers have aided in the solution of poverty-related problems through helping low-income individuals achieve self-sufficiency through meaningful and constructive volunteer service. In Florida, VISTA volunteers work in food banks, with drug abuse prevention programs, and with child abuse programs. In the early part of this decade, in the midst of the Marielito boat lift, VISTA volunteers provided invaluable assistance to Cuban and Haitian refugees by soliciting donations, placing refugees in jobs, attracting community volunteers and producing a Creole-English handbook for Haitian refugees.

VISTA's programming efforts have focused on the problems of hunger, homelessness, illiteracy, unemployment, drug and alcohol abuse, domestic violence, child abuse, the special needs of low-income seniors, the handicapped, migrant farm workers, and native Americans.

Foster Grandparents are low-income seniors who serve 20 hours per week working with children who have mental, physical, and emotional handicaps. Daisy Martin, a foster grandparent from Fort Lauderdale, FL testified before my Subcommittee on Children, Family, Drugs, and Alcoholism in behalf of the reauthorization of this program. Mrs. Martin spoke for all foster grandparents when she described the special importance that this program serves in her life.

> We like to be useful. We like to feel needed. We like to go out and share our love with humans, mankind. And that is the total source of the Foster Grandparent program—helping themselves and helping others to help themselves. We have Foster Grandparents working in child abuse shelters, drug abuse shelters, daycare nurseries, and women in distress shelters. We have Foster Grandparents working in all those shelters, giving themselves and giving their time and their love, sharing their love and their time and their energy with mankind.

Senior Companion and Retired Senior Volunteer Program [RSVP] are the other two older American volunteer programs. While they are perhaps not as well known as the Foster Grandparent Program, they provide equally important services to those in need. Senior Companions are also low-income individuals who serve 20 hours a week providing assistance to elderly persons in order to prevent or delay their institutionalization. Senior Companions play a crucial role in assisting the frail elderly to overcome mental, emotional, and physical impairments to achieve their fullest potential, to maintain their health and independence.

Retired Senior Volunteers are composed of elderly volunteers from all income levels who serve without stipend to address a variety of community needs such as youth services, literacy enhancement, in-home care, crime prevention, housing rehabilitation, as well as offering their years of vast experience to nonprofit service organizations to improve the organization's management and operational practices.

Other ACTION volunteer programs include the Service Learning Program, whose purpose is to link the needs of the poor with the students interest in community service, citizen participation and volunteer demonstration programs which are designed to mobilize citizens for voluntary action to change the conditions that deny fulfillment of human potential and to demonstrate and replicate innovative volunteer efforts.

Testimony presented to my Subcommittee on Children, Family, Drugs and Alcoholism on February 6 clearly demonstrated the worth and value of the Federal funds expended to foster these volunteer activities. Therefore, today I am introducing legislation to reauthorize this program for an additional 3 years at a level of authorized appropriations which will permit this program to expend its efforts to reach those in need.

I am recommending authorization of appropriations for fiscal year 1987 at or near the level of authorized for the previous fiscal year. In most cases this is close to the appropriated levels. The two exceptions are VISTA and Senior Companion Program which have never been appropriated at their full authorized levels, I believe that programs are cost-effective methods of reducing poverty and assisting our frail elderly. I hope that the Budget and Appropriations Committee will consider funding all of the ACTION programs at their authorized levels.

The modifications contained in this reauthorization legislation are designed to improve the agencies ability to foster and expand voluntary citizen service, utilizing public and private sector resources and coordinate this effort with other Federal agencies.

The provisions include a statement of volunteerism policy which is intended to tie together the specific statements of purpose for individual programs already contained in the act and create a general mission statement. This volunteerism policy reiterates ACTION's goal of stimulating the tremendous potential of Americans to volunteer and the agency's role in directing these volunteer efforts to activities designed to serve the poor, the disadvantaged and the vulnerable.

The reauthorization legislation contains several modifications designed to enhance the ability of ACTION to utilize the generosity and resources of public and private sector resources.

The National Voluntary Service Advisory Council is reestablished, with a mandate for a smaller more manageable membership, the Director's authority to accept and distribute private sector contributions is expanded to specifically authorize the Director to conduct fundraising in behalf of ACTION programs.

In addition, the Director is authorized to develop regulations to provide an opportunity for senior citizens who are anxious to volunteer, but are currently ineligible to become foster grandparents or senior companions because of their incomes. Provisions in the reauthorization legislation would permit the enrollment of elderly volunteers who don't meet the income eligibility standards, but only if they serve without stipend, do not utilize federal financial resources meant for low-income stipended volunteers and under no circumstances substitute or supplant the low income stipend volunteer.

Mr. President, this legislation was developed with the cooperation and input of other members of the Subcommittee on Children, Family, Drugs and Alcoholism. It is my understanding that some of my colleagues on the full Committee have proposals that they wish considered. Senator SIMON in particular has informed me of his desire to expand VISTA's literacy initiatives and Senator METZENBAUM has indicated his interest in the subject of the National Voluntary Service Advisory Council. I plan to consider this legislative proposal at the full committee.

Mr. President, I ask unanimous consent that a copy of the reauthorization legislation and a section-by-section analysis of the bill be printed in the RECORD.

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

S. 2324

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 "Domestic Volunteer Service Act Amendments of 1986".

VOLUNTEERISM POLICY

SEC. 2. (a) The Domestic Volunteer Service Act of 1973 (hereafter in this Act referred to as the "Act") is amended by inserting immediately after the table of contents the following new section:

"VOLUNTEERISM POLICY

"SEC. 2. (a) Because of the long-standing importance of volunteerism throughout American history, it is the policy of the Congress to foster the tradition of volunteerism through greater involvement on the part of both young and older citizens.

"(b) It is the intention of the Congress, through ACTION, the Federal domestic volunteer agency, to foster and expand voluntary citizen service, and coordinate its efforts with other Federal agencies. The ACTION Agency shall utilize to the fullest extent the energy, innovative spirit, experience, and skills of all Americans to serve local communities designed to help the poor, the disadvantaged, and the vulnerable through the application of volunteer service.".

(b) The table of contents of the Act is amended by inserting before title I the following new item:

"Sec. 2. Volunteerism policy.".

FOSTER GRANDPARENT PROGRAMS

SEC. 3. Section 211 of the Act is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e)(1) Pursuant to regulations which the Director may prescribe, individuals may serve as foster grandparents under this part who are not low-income persons if the individuals serve without stipend or reimbursement for expenses other than transportation, meals, and out-of-pocket expenses incident to the provision of services under this part.

"(2)(A) Each nonstipend volunteer shall comply with requirements of this part, including the 20-hour-per-week service schedule.

"(B) No appropriated funds may be diverted from direct volunteer benefits for low-income stipend volunteers to direct volunteer benefits for nonstipend volunteers under this part.

"(C) Volunteers not in the low-income category serving without stipend under this part shall not replace low-income volunteers serving with stipend.".

SENIOR COMPANION PROGRAM

SEC. 4. Section 213 of the Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Pursuant to regulations which the Director may prescribe, individuals may serve as senior companions under this part who are not low-income persons if such individuals serve without stipend or reimbursement of expenses other than for transportation, meals, and out-of-pocket expenses incident to the provision of services under this part.

"(2)(A) Each nonstipend volunteer shall comply with requirements of this part, including the 20-hour-per-week service schedule.

"(B) No appropriated funds may be diverted from direct volunteer benefits for low-income stipend volunteers to direct volunteer benefits for nonstipend volunteers under this part.

"(C) Volunteers not in the low-income category serving without stipend under this part shall not replace low-income volunteers serving with stipend.".

AUTHORITY OF THE DIRECTOR

SEC. 5. Section 402 of the Act is amended—

(1) by inserting "(a)" after the section designation; and

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

"(b)(1) The Director is authorized to accept in the name of the ACTION Agency funds received through solicitation of profit and nonprofit entities and to employ or dispose of the funds in furtherance of the purposes of this Act, or of any title thereof. Consistent with the provisions of clause (5) of subsection (a) of this section, all funds so received shall become part of the gift fund account of the ACTION Agency and shall remain available until expended.

"(2) The Director shall assure that a majority of the aggregate amount in each fiscal year of all unrestricted gifts to the ACTION Agency will be spent to support volunteer projects carried out at the community level.".

ADMINISTRATION AND COORDINATION; ADVISORY COUNCIL

SEC. 6. (a) Title IV of the Act is amended by inserting after section 404 the following new section:

"NATIONAL VOLUNTARY SERVICE ADVISORY COUNCIL

"SEC. 405. (a) There is hereby established in the ACTION Agency a National Voluntary Service Advisory Council (hereinafter referred to as the 'Council') to be composed of not more than 25 members appointed, not later than ninety days after the date of the enactment of the Domestic Volunteer Service Act Amendments of 1986, by and serving at the pleasure of the President. Such members shall be representative of public and private organizations, groups and individuals interested in serving programs and benefited by programs carried out under this Act. The President shall designate a temporary chairperson from such members and shall call the initial meeting of the Council within thirty days after appointment of such Council. Members of the Council shall designate a permanent chairperson from such members and shall meet at the call of such chairperson. The Director and Deputy Director of the ACTION Agency shall be ex officio members of the Council.

"(b) The Council shall—

"(1) advise the Director with respect to policy matters arising in the administration of this Act; and

"(2) upon the request of the Director, review and effectiveness and the operation of programs under this Act and make recommendations (including such proposals for changes in this Act as the Council deems appropriate) concerning (A) the improvement of such programs, (B) the elimination of duplication of effort, and (C) the coordination of such programs with other Federal programs designed to assist the beneficiaries of this Act.

"(c) Members of the Council, other than individuals regularly employed by the Federal Government shall, while away from their homes or regular places of business, be paid travel expenses (including per diem in lieu of subsistance) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(d) Not later than January 1 of each calendar year, the Council shall make an annual report of its findings and recommendations to the President for transmittal by the President to the Congress, together with his comments and recommendations.".

(b) Title IV of the table of contents of the Act is amended by inserting after item "Sec. 404." the following new item:

"Sec. 405. National Voluntary Service Advisory Council.".

EVALUATION

SEC. 7. Section 416(a) of the Act is amended to read as follows:

"(a) The Director shall measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals, in general, and in relation to their cost, their impact on related programs, and their structure and mechanism for delivery of services. Each program shall be evaluated at least once every four years. Evaluations shall be conducted by persons not immediately involved in the ad-

ministration of the program or project evaluated.".

NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS AUTHORIZATION

SEC. 8. Section 501 of the Act is amended to read as follows:

"NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS AUTHORIZATION

"SEC. 501. (a) There is authorized to be appropriated to carry out part A of title I of this Act $25,000,000 for fiscal year 1987, $25,750,000 for fiscal year 1988, and $26,522,500 for fiscal year 1989.

"(b) There is authorized to be appropriated to carry out part B of title I of this Act $1,800,000 for each of the fiscal years 1987, 1988, and 1989.

"(c) There is authorized to be appropriated to carry out part C of title I of this Act $1,984,000 for each of the fiscal years 1987, 1988, and 1989.".

NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS AUTHORIZATION

SEC. 9. Section 502 of the Act is amended to read as follows:

"NATIONAL OLDER AMERICANS VOLUNTEER PROGRAMS AUTHORIZATION

"SEC. 502. (a) There is authorized to be appropriated to carry out programs under part A of title II of this Act $31,100,000 for fiscal year 1987, $32,033,000 for fiscal year 1988, and $32,990,000 for fiscal year 1989.

"(b) There is authorized to be appropriated to carry out programs under part B of title II of this Act $58,700,000 for fiscal year 1987, $60,461,000 for fiscal year 1988, and $62,274,830 for fiscal year 1989.

"(c) There is authorized to be appropriated to carry out programs under part C of title II of this Act $28,600,000 for fiscal year 1987, $29,458,000 for fiscal year 1988, and $30,341,740 for fiscal year 1989.".

ADMINISTRATION AND COORDINATION

SEC. 10. Section 504 of the Act is amended to read as follows:

"ADMINISTRATION AND COORDINATION

"SEC. 504. There is authorized to be appropriated for the administration of this Act, as authorized in title IV of this Act, $25,312,000 for fiscal year 1987 and for each fiscal year ending prior to October 1, 1989.".

TECHNICAL AMENDMENTS

SEC. 11. (a)(1) The heading of part C of title II of the Act is amended to read as follows:

"PART C—SENIOR COMPANION PROGRAM"

(2) The item for part C of title II in the table of contents of the Act is amended to read as follows:

"PART C—SENIOR COMPANION PROGRAM".

(b)(1) Secton 16(a) of the Domestic Volunteer Service Act Amendments of 1984 is amended by striking out "Part C" and inserting in lieu thereof "Part D".

(2) Section 16(b) of such Act is amended by striking out "part C" and inserting in lieu thereof "part D".

(c)(1) The heading of section 213 of the Act is amended by striking out "THE PROGRAM" and inserting in lieu thereof "VOLUNTEER SERVICE PROJECTS".

(2) The item for section 213 in the table of contents of the Act is amended by striking out "the program" and inserting in lieu thereof "volunteer service projects".

(d) Section 122(a)(1) of the Act is amended by striking out a semicolon each place it appears and inserting in lieu thereof a comma.

(e) The fifth sentence of section 401 of the Act is amended by striking out "level 5" and inserting in lieu thereof "level V".

(f) Section 402(a)(1) of the Act (as redesignated by section 5(1) of this Act) is amended by inserting a comma immediately before "except" the second time it appears.

(g) Section 419 of the Act is amended by striking out "to this Act" and inserting in lieu thereof "to this Act)".

(h) Section 421(1) of the Act is amended by striking out "agency" and inserting in lieu thereof "Agency".

(i)(1) Section 105(b) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(2) Section 112 of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(3) Section 114(c) of the Act is amended by striking out "he" each time it appears and inserting in lieu thereof "the Director".

(4) Section 122(b) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(5)(A) Section 402(a) of the Act (as redesignating by section 5(1) of this Act) is amended by striking out "him" and inserting in lieu thereof "the Director".

(B) Section 402(a)(3) of the Act is amended by striking out "his functions" and inserting in lieu thereof "the functions of the Director".

(C) Section 402(a)(7) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(D) Section 402(a)(8) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(E) Section 402(a)(10) of the Act is amended by striking out "him" each time it appears and inserting in lieu thereof "the Director".

(F)(i) Section 402(a)(11)(B) of the Act is amended by striking out "him" and inserting in lieu thereof "the Director".

(ii) Section 402(a)(11(B)(ii) of the Act is amended by striking out "his intention" and inserting in lieu thereof "the intention of the Director".

(G) Section 402(a)(14) is amended by striking out "he" and inserting in lieu thereof "the Director".

(6) Section 403(a) of the Act is amended by striking out "his official capacity" and inserting in lieu thereof "an official capacity".

(7) Section 404(e) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(8) Section 412(a) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(9) Section 415(d) of the Act is amended by striking out "he" and inserting in lieu thereof "the Director".

(10)(A) Section 601(c) of the Act is amended by striking out "his designee" and inserting in lieu thereof "the designee of the Director".

(B) Section 601(e) of the Act is amended by striking out "his official capacity" and inserting in lieu thereof "an official capacity".

SECTION-BY-SECTION ANALYSIS OF THE DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1986

Section 1 of the bill cites the Act as the "Domestic Volunteer Service Act of 1986."

Section 2 of the bill adds a new section immediately after the table of contents stating that the policy of the Congress is to foster the tradition of volunteerism through greater involvement of both young and elder citizens. The section also states that it is the intention of Congress, through the ACTION agency to foster and expand voluntary citizen services and coordinate efforts within other Federal agencies. ACTION is required to utilize the energy, innovative spirit, experience, and skills of all Americans to serve local communities in activities designed to help the poor, disadvantaged, and vulnerable through volunteer service.

Section 3 of the bill amends section 211 of the Act regarding the foster grandparent program to add a new subsection authorizing the Director to develop regulations permitting the enrollment of individuals who do not meet the low-income criteria if such individuals are willing to serve without a stipend or reimbursement for expenses other than for transportation, meals, and out-of-pocket expenses incident to providing foster grandparent services. Non-stipend volunteers must work 20 hours a week and comply with other foster grandparent requirements. The section further prohibits appropriated funds from being diverted from direct volunteer benefits for low-income stipend volunteers to non-stipend volunteers. It also prohibits non-stipend volunteers from replacing low-income volunteers serving with stipend.

Section 4 of the bill amends section 213 of the Act regarding the Senior Companion program by adding a new subsection authorizing the Director to develop regulations permitting the enrollment of volunteers who do not meet the low-income criteria if such volunteers are willing to serve without stipend or reimbursement for expenses other than for transportation, meals, or out-of-pocket expenses incident to providing senior companion services. Non-stipend volunteers must work 20 hours a week and comply with other senior companion requirements. The section further prohibits appropriated funds from being diverted from direct volunteer benefits for low-income stipend volunteers to non-stipend volunteers serving without stipend.

Section 5 of the bill amends section 402 of the Act to add a new subsection regarding authorized duties of the Director. It authorizes the Director to accept solicited funds from profit and non-profit entities, and to use the funds in accordance with the purposes and the activities authorized by the Act. The bill requires, consistent with section 402(5) of the Act, that all funds shall become part of the gift fund account of ACTION and shall remain available until expended. The subsection also requires the Director to assure that a majority of the amount of all unrestricted gifts to ACTION each fiscal year will be spent to support volunteer projects at the community level.

Section 6 of the bill amends Title IV of the Act by inserting a new section 405 to establish a National Voluntary Service Advisory Council. The Council is to be composed of not more than twelve members appointed by and serving at the pleasure of the President, and appointed no later than 90 days after enactment of this bill. The members are to be representative of public and private organizations, and groups and individuals interested in serving programs and benefited by programs carried out under this Act. Designation of chairpersons, ex-officio members, and the initial meeting date are also set forth. The Council shall advise the Director on policy matters arising in the administration of the Act. Upon the request of the Director, the Council shall review the effectiveness and the operation of programs

under the Act and make recommendations concerning the improvement of such programs, the elimination of duplication of effort, and the coordination of such program with other Federal programs designed to assist the beneficiaries of this Act. Council members, other than Federal employees, are to have their travel and per diem expenses reimbursed for the time they serve on the Council. The Council shall make annual reports of its fundings and recommendations by January 1st of each year. The reports are to be sent to the President who is required to send them to Congress with his comments and recommendations.

Section 7 of the bill restates and also amends part of section 416(a) of the Act regarding evaluations. It specifies that the Director shall measure and evaluate the impact of all programs authorized by this Act in terms of their effectiveness in achieving stated goals, and in relation to their cost, their impact on related programs, and their structure and mechanism for delivery of services. Each program shall be evaluated at least once every four years. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

Section 8 of the bill amends section 501(a) of the Act to authorize the following appropriations for fiscal years 1987, 1988, and 1989:

	Fiscal year—		
	1987	1988	1989
Volunteers in Service to America (VISTA)	$25,000,000	$25,750,000	$26,522,500
Service-learning programs	1,800,000	1,800,000	1,800,000
Special volunteer projects	1,984,000	1,984,000	1,984,000

Section 9 of the bill amends section 502(a) of the Act to authorize the following appropriations for fiscal years 1987, 1988, and 1989:

	Fiscal year—		
	1987	1988	1989
Retired Senior Volunteer Program	$31,100,000	$32,033,000	$32,990,000
Foster Grandparent Program	58,700,000	60,461,000	62,274,830
Senior Companion Program	28,600,000	29,458,000	30,341,740

Section 10 of the bill amends section 504 of the Act to authorize for title IV program administration $25,312,000 for each of fiscal years 1987, 1988, and 1989.

Section 11 of the bill makes various technical amendments, including the following. Section 11(b) corrects an amendment in the "domestic Volunteer Service Act Amendments of 1984" which refers to "Part C" instead of "Part D, General Provisions."

Section 11(c) changes the heading for section 213 of the Act (containing provisions for the Senior Companion Program) to "Grants and Contracts for Volunteer Service Projects." This subsection also makes the change in the Table of Contents.

The remaining subsections eliminate references to the gender of the Director of the ACTION agency, or make punctuation changes in the Act.

By Mr. EXON:

S. 2325. A bill to permit a maximum speed limit of 70 miles per hour on any route within the National System of Interstate and Defense Highways; to the Committee on Commerce, Science, and Transportation.

SEVENTY-MILE-PER-HOUR SPEED LIMIT

Mr. EXON. Mr. President, I am introducing legislation which will give the States the authority to increase the maximum speed on interstate highways to 70 miles per hour.

It is very important to note that this bill applies to the Interstate Highway System only. This legislation in no way will allow States to increase the speed limits on primary or secondary roadways over the current limit of 55 miles per hour.

It has become increasingly apparent that the motoring public is systemically ignoring the current national requirement of a 55-miles-per-hour maximum on the interstate.

When this law was enacted in 1974, it was done so in response to an energy crisis. Today, we have a different situation. If we subsequently encounter energy shortage problems we may have to cut back again as a result of falling energy costs, our motorists, on the whole, are ignoring the 55-miles-per-hour limit on the Interstate System as are most of the enforcement agencies. This is especially true in States, like Nebraska, which have large sparsely populated geographical areas of limited congestion. In addition, State enforcement of the 55-miles-per-hour limit on the Interstate System is lax. I need only cite Nebraska's law regarding interstate speed in which one can drive up to 65 miles per hour and, if ticketed, will only pay a maximum fine of $10 and lose no points off of one's driver license. As a result of this law, enforcement of 55 miles per hour on the interstate actually begins at 65 miles per hour. I know that other States also are experiencing lax enforcement of the 55-mile-per-hour speed similar to that in Nebraska.

Mr. President, a recent review of Nebraska's accident statistics show that of the 207 fatal accidents which occurred in Nebraska in 1985, only 7 took place on the Interstate System. That is only 3.4 percent. It is also interesting to note that not one of these seven fatal accidents cited excessive speed as the cause.

Nationally, of the 39,622 fatal accidents occurring during 1984, only 3,749 or 9.4 percent occurred on the Nation's Interstate System. While contributing factor statistics are not available on these accidents obtained from the National Highway Traffic Safety Administration. I would not hesitate to assume that the large majority of these accidents were also caused by factors other than excessive speeds.

Mr. President, I want to stress that this legislation will only apply to the Interstate System. In addition, the States will continue to have broad authority to set lower speed limits on any portion of or all of an interstate they believe unsuitable for a 70-mile-per-hour maximum. The States set whatever limit they want under 70-mile-per-hour maximum.

Finally, during my years as Governor of Nebraska I was deeply involved in highway safety and established a sound record. I do not believe the measure I am introducing today is contrary to or inconsistent with that record.

Mr. President, I have always believed that an unenforceable law is a bad law. I truly believe this applies to the 55-mile-per-hour speed limit on our Nation's Interstate Highway System under today's circumstances.

During the 1980 President campaign, President Reagan expressed his opposition to the current 55-mile-per-hour speed limit. Knowing of his feelings on this matter, I have written the President requesting his support for this legislation. In my letter, I requested suggestions for any improvements or amendments which he may require for his support. I ask unanimous consent that the bill and a copy of my letter to President Reagan be printed in the RECORD.

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

S. 2325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 154 of title 23, United States Code, is amended by adding at the end thereof the following:

"(i) Notwithstanding any other provision of law, the maximum speed limit permitted on any route within the Interstate System shall be seventy miles per hour.".

UNITED STATES SENATE,
Washington, DC, April 17, 1986.

THE PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Public compliance with the current federal law regarding the 55 mph speed limit on our nation's highways has been decreasing steadily since its enactment during the energy crisis in 1974. This is particularly true on our interstate system which was designed for higher speeds without compromising safety.

Today, more and more of our nation's motorists are traveling on our interstate system at speeds considerably over the 55 mph limit. They do so with full knowledge of the law but also with full knowledge that the enforcement of this limit has also become increasingly lax.

During the 1980 presidential campaign, you opposed the 55 mph speed limit. The 1980 Republican Platform, which you also embraced, stated; "We believe the federal 55 mile per hour speed limit is counterproductive and contributes to higher costs of goods and services to all communities, particularly in rural America. The most effective, no-cost federal assistance program available would be for each state to set its own speed limit."

I have introduced legislation which would follow exactly your stated opinion and allow states to set the speed limit on their interstate systems up to a top limit of 70 mph. This bill will not change the current maxi-

mum federal speed limit on primary and secondary highways nor will it change the states' authority to set lower limits on certain segments of interstate highway not suitable for the 70 mph limit.

Mr. President, I believe this legislation is a positive step toward giving the states more flexibility in setting speed limits on their interstate systems without compromising the overall issue of safety. I also believe this legislation is consistent with your philosophy on this matter. I would, therefore, ask for your support of this legislation.

If there are any adjustments that you believe may improve this legislation, I would be pleased to consider any amendment you believe would be required for your support.

Sincerely,

J. JAMES EXON,
U.S. Senator.

By Mr. HEFLIN:

S. 2326. A bill to protect the name and marks of the Alabama Space Science Exhibit Commission; to the Committee on the Judiciary.

ALABAMA SPACE SCIENCE EXHIBIT COMMISSION

● Mr. HEFLIN. Mr. President, in 1965 the Alabama Legislature established the Alabama Space Science Exhibit Commission as a nonprofit educational agency to operate a space and rocket museum in Huntsville, AL. In 1982, this commission began the Youth Camp Science Program in Huntsville to stimulate young people's interest in space, science, and math through extensive hands-on experience with the space program. The huge success of the space camp program has been the subject of numerous articles in national magazines and newspapers as well as network news programs.

Space camp is the only supplemental educational program in the Nation specifically intended to motivate youngsters to prepare for high technology and scientific careers. The space camp program influences its young participants to study science and technology so they will be adequately qualified to become the scientists and engineers of tomorrow.

The youngsters, ranging from ages 11 t0 16, spend 5 days at the Space and Rocket Center's museum complex in closely structured programs involving rocketry, equipment design, astronaut training, computers and career guidance. They work with sophisticated equipment and converse with engineers and scientists involved in aerospace technology. Children from varied ethic and social backgrounds work side-by-side each day.

At the request of the program's graduates for continuing studies between trips to Huntsville, a package of home study material is being developed for distribution by its Space Camp Club. Also, youngsters' education will be carried to higher levels with the creation of the Space Academy Science Program.

This season, some 4,000 boys and girls from all 50 States and at least 18 foreign countries will participate in this remarkable educational program. This will raise the 5-year total to more than 12,000 participants.

Inspired by the late Dr. Wernher von Braun, the space camp is self-supported and depends on its funding from a number of sources including the Huntsville, AL aerospace community, the U.S. Army Missile Command, and the Marshall Space Flight Center of the National Aeronautics and Space Administration. Just as Dr. Von Braun founded the Space and Rocket Museum on a self-funded basis, so have the educational programs continued on that philosophy.

Financial support from the Nation's high technology industry is growing each year. Funds for construction of permanent facilities are being raised from a number of leading corporations. Among them are Coca-Cola, McDonnell Douglas, Rockwell International, Morton Thiokol, IBM, Teledyne, Eastern Airlines, United Technologies, Lockheed, Boeing, Texas Instruments, Essex Corp., Controlled Data Corp., TRW, South Central Bell, Martin Marietta, Goldstar, Owens-Corning, Raytheon, PPG Industries, Polaroid, Chesebrough Ponds, 3M, First Alabama Bank, J.T. Schrimsher Co., Hercules, Wyle, Proctor and Gamble, Atlanta Research, Colonial Bank of North Alabama, GTE, Bendix, and Finalco.

In my many trips to the Space and Rocket Museum I have been impressed with the enthusiasm and interest demonstrated by the fine young people that participate in this program as well as its highly qualified staff. I firmly believe that this young generation being trained to staff our aerospace and other high tech programs in the 21st century will be able to accomplish even greater successes than we have to date.

Today I am introducing legislation which would protect the use of the official names which have been created by the Alabama Space Science Exhibit Commission. Through its unique and excellent educational programs the space camp is now recognized the world over. My bill would simply give the Commission the exclusive rights to the continued use of the names it created, such as space camp and space academy, and which have become synonymous with these programs. I urge my colleagues to support me in this effort.●

By Mr. EVANS (for himself, Mr. GORE, Mr. ABDNOR, Mr. BAUCUS, Mr. BUMPERS, Mr. BURDICK, Mr. EAGLETON, Mr. FORD, Mr. GORTON, Mr. HARKIN, Mr. MELCHER, Mr. NICKLES, Mr. PRESSLER, Mr. SASSER, and Mr. ZORINSKY):

S. 2328. A bill to prohibit for a ten-year period the transfer or sale of Federal Power Marketing Administrations or the Tennessee Valley Authority, and for other purposes; to the Committee on Energy and Natural Resources.

(The remarks of Mr. EVANS and others, and the text of the legislation appear earlier in today's RECORD.)

By Mr. COCHRAN:

S. 2330. A bill to amend the copyright law regarding work made for hire; to the Committee on the Judiciary.

TO AMEND THE COPYRIGHT LAW REGARDING WORK FOR HIRE

Mr. COCHRAN. Mr. President, today I am introducing legislation to amend the copyright laws to protect more effectively the work product of writers, artists, photographers, composers, and other such creators of works of art.

During the 97th and 98th Congresses, I introduced similar legislation after learning that some artists in my State of Mississippi had found themselves to be the victims of work-for-hire laws that were unfair to them.

The Senate Judiciary Committee held hearings in 1982 to review this legislation and to examine industry practices. Representatives of the Graphic Artists Guild, the Authors League of America, and the American Society of Journalists and Authors testified, as did representatives of the publishing industry.

Since that time, I have continued to work with members of the Graphic Artists Guild, the American Society of Magazine Photographers, and others to develop a better proposal for consideration by the Congress. Supporting the reform effort is a coalition of over 40 artist and writer groups representing more than 40,000 creators. I ask unanimous consent that a list of those organizations be printed in the RECORD at the conclusion of my remarks.

Under present law, a work may be deemed a work made for hire if it is first, a work prepared by an employee within the scope of his or her employment; or second, a certain type of work specially commissioned if the parties expressly agree in a written instrument signed by them that the work will be considered a work made for hire. Specially commissioned works are limited to those enumerated in the definition which includes contributions to collective works, parts of motion pictures and audiovisuals, instructional texts, and others.

If a creator prepares a work made for hire, he or she is no longer the author for copyright purposes; rather, the employer or the commissioning party is the author and receives all future income that may be derived from any use of the work in any medium.

This presents less of a problem for employees who may lose authorship of their work but are deemed to be rewarded by the terms of their employment, which may include a salary and fringe benefits, or provision of a workplace, and tools and materials.

Freelance creators enjoy none of the security and benefits associated with employee status, are compensated only for the intended use of the copyrighted work, and are further cut off from any other income generated by the subsequent use of their work. Because publishes enjoy a superior bargaining position, they are able to demand a work-for-hire contract as a condition of publication.

The theory of the work-for-hire doctrine is that the employer or commissioning party is entitled to authorship of the work because he conceives, directs, and controls the production of the work and bears the financial risks of development. While this argument is a strong one for works prepared by an employee in the course of his employment, it is not always applicable to freelancers who often conceive and develop a work in their own studios.

Yet, artists, writers, and others complain that work-for-hire contracts are forced upon them even when the publisher exercises little or no control over the production of the work. And, in many instances, work-for-hire agreements are demanded after a work has already been created, sometimes by use of a restrictive endorsement on a payment check, a practice clearly outside the intent of the work-for-hire laws.

Conflicting court decisions have also undermined the clear intent of Congress that commissioned work be considered work-for-hire only if a written contract so provides. In *Aldon Accessories* v. *Spiegel Ltd.*, 738 F. 2nd 548 (2nd Cir.), cert. denied, 105 S. Ct. 387 (1984), the Second Circuit Court of Appeals used a "control and supervision" test in finding that freelance artists working on commission are employees under the work-for-hire definition.

The legislation I am introducing attempts to address these inequities. Under my bill, the copyright law's definition of employee is changed to exclude freelancers. The bill deletes from current law all types of works which may be subject to work-for-hire contracts, except motion pictures. Most categories of works would be subject to standard all rights contracts.

Other categories, including contributions to collective works, parts of audiovisuals, other than motion pictures, supplementary works, and instructional texts, would be subject to the section of the copyright law providing for the transfer of limited rights to reproduce or distribute an author's work. Rights which are granted but are not exercised within 3 years would be subject to termination by the artist.

In order to close another potential loophole in the work-for-hire laws, the bill clarifies the definition of joint work by requiring that, for a specially ordered or commissioned work to be considered a joint work, the parties must expressly so agree in a written instrument prior to commencement of the work.

Additionally, the bill provides that ownership of original art is deemed to remain with the creator unless transferred by a written instrument. Aside from the value of copyright, a photograph, illustration, manuscript, or other creation may be valuable in itself and may represent another source of income for its creator.

Mr. President, there is considerable support throughout the country for Congress to address the rights of artists and the inequities of work-for-hire. The States of New York and California have enacted moral rights legislation, designed to prohibit the alteration or mutilation of artwork and to recognize the artist's interest in his work after its sale. Fair practices legislation enacted in New York, California, and Oregon involves the transfer of ownership in the physical object, and, like my bill, requires a written instrument to effect such a transfer.

The State of California has also enacted work-for-hire legislation that entitles a creator working under a work-for-hire agreement to employee benefits.

Despite the States attempts to deal with the problem, the Federal copyright law is preemptive. True reform requires Federal legislation. Resolutions adopted by the New York City Council and the Detroit and Providence, RI, city councils have called upon the U.S. Congress to take action on the issue.

Mr. President, our copyright laws were enacted to promote and protect the creation of literary, artistic, musical and other works. Yet, our work-for-hire laws are depriving all artists, not only the new, young creators, of much of the income generated by their work. In many cases, they are being forced to abandon their careers.

I hope my friends on the Judiciary Committee will give prompt consideration to this bill and recommend its passage to the Senate at an early date.

I ask unanimous consent that a copy of this bill be printed in the RECORD.

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

S. 2330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of title 17, United States Code, is amended—

(1) by amending the definition of "work made for hire"—

(A) in clause (1) by inserting before the semicolon the following: "if the employee receives all employment benefits due under applicable State and Federal law and the employer withholds taxes from such payments to the employee and remits such taxes to the Internal Revenue Service";

(B) by amending clause (2) to read as follows:

"(2) a work specially ordered or commissioned for use as a part of a motion picture, if for each such work the parties expressly agree in a separate written instrument signed by them prior to the commencement of any work pursuant to such an order or commission that the work shall be considered a work made for hire."; and

(C) by adding at the end thereof the following: "Unless the work falls within either clause (1) or clause (2), it cannot be work made for hire.";

(2) by adding at the end of the definition of "joint work" the following: "For a specially ordered or commissioned work to be a joint work, the work must meet the foregoing definition and for each such work the parties must expressly agree in a separate written instrument signed by them prior to the commencement of any work that the work shall be considered a joint work.".

SEC. 2. Section 201 of title 17, United States Code, is amended by amending subsection (c) to read as follows:

"(c) CONTRIBUTIONS TO COLLECTIVE WORKS, CONTRIBUTIONS TO COMPILATIONS, SUPPLEMENTARY WORKS, INSTRUCTIONAL TEXTS, AND PARTS OF AUDIOVISUAL WORKS OTHER THAN MOTION PICTURES.—Copyright in each separate contribution to a collective work, in any supplementary work, in any instructional text, and in any part of an audiovisual work other than a motion picture, is distinct from the copyright in the larger or revised work as a whole, and vests initially with the author who created the work which is to be incorporated into the larger or revised work. In the absence of an express transfer of the copyright or of any rights under it, the owner of the copyright in such larger or revised work is pressure to have acquired only the privilege of reproducing and distributing the author's work as part of such particular larger or revised work, any revision of such larger or revised work, and any later larger or revised work in the same series. If an express transfer is made with respect to an author's work in one of these categories, such transfer shall not exceed the rights which the transferee reasonably anticipates exercising. For purposes of this subsection—

"(1) an 'instructional text' means a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities; and

"(2) a 'supplementary work' is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forwards, afterwords, pictorial illustrations, or appendixes.".

SEC. 3. Section 202 of title 17, United States Code, is amended by striking out all after the semicolon in the second sentence and inserting in lieu thereof the following: "nor, in the absence of a written agreement expressly conveying property rights in a material object, does transfer of ownership of a copyright or of any exclusive rights under a copyright or the entering into a work made for hire definition convey property rights in any material object.".

SEC. 4. Section 203 of title 17, United States Code, is amended by inserting at the end of subsection (a)(3) the following: "As to categories of works covered by section 201(c), a partial termination may be effected at any time during a period of five years beginning at the end of the period of three years after the date of the execution of the grant. The termination shall apply to any usage permitted under the grant which has not been exercised by publication, except that any title published within such three-year period may be republished in its original form or in a revised version of that particular title. For purposes of the foregoing sentence, a title shall be deemed revised if in its new form two-thirds of the content is retained from the original version. Neither the effectuation of such a partial termination nor the failure to effect such a partial termination shall in any way restrict the effectuation of a complete termination of any grant pursuant to this clause.".

ORGANIZATIONS SUPPORTING THE WORK-FOR-HIRE BILL

Advertising Photographers Association.
American Federation of Television and Radio Artists.
American Society of Magazine Photographers
Art Directors Club of New York.
Art Directors Club of Salt Lake City.
Artists Equity Association of New York.
Artists in Print.
Association of American Editorial Cartoonists.
Association of Medical Illustrators.
Association of Science Fiction Artists.
Boston Visual Artists Union.
Cartoonists Guild.
Comic Book Creators Guild.
Council of Writers Organizations.
American Society of Journalists and Authors.
Aviation/Space Writers Association.
Eastern Ski Writers.
Editorial Freelancers Association.
Garden Writers Association of America.
The I.B.W.
International Motor Press Association.
Media Alliance.
National Association of Science Writers.
National Book Critics Circle.
Outdoor Writers Association of America.
Science Fiction Writers of America.
Society of American Travel Writers.
Travel Journalists Guild.
Washington Independent Writers.
Foundation for the Community of Artists.
Graphic Artists Guild.
Association of Children's Book Artists and Authors.
Illustrators Discipline.
Graphic Designers Discipline.
Needleart Designers Discipline.
Independent Literary Agents Association.
Joint Ethics Committee.
National Artists Equity Association.
National Cartoonists Society.
National Writers Union.
PEN.
Screen Actors Guild.
Society of Authors Representatives.
Society of Illustrators of Los Angeles.
Society of Illustrators of New York.
Society of Illustrators of San Francisco.
Society of Photographers and Artists Representatives.

Mr. HEINZ (for himself, Mr. GLENN, Mr. DURENBERGER, Mr. BRADLEY, Mr. KENNEDY, Mr. CHAFEE, Mr. CHILES, Mr. MATSUNAGA, Mr. WILSON, Mr. MOYNIHAN, Mr. RIEGLE, and Mr. DODD):

S. 2331. A bill to amend title XVIII of the Social Security Act to assure the quality of inpatient hospital services and posthospital services furnished under the Medicare Program, and for other purposes; to the Committee on Finance.

MEDICARE QUALITY PROTECTION ACT

● Mr. HEINZ. Mr. President, today I am introducing along with my colleagues, Senators GLENN, DURENBERGER, KENNEDY, BRADLEY, CHAFEE, MATSUNAGA, CHILES, WILSON, RIEGLE, MOYNIHAN, and DODD, the Medicare Quality Protection Act of 1986, to improve quality and access to care under the Medicare Program. I am extremely pleased that Representative PETE STARK, chairman of the Ways and Means Committee's Subcommittee on Health, and Representative BILL GRADISON, the ranking minority member, are introducing the identical bill today in the House. They are joined by the chairman of the Energy and Commerce Committee Subcommittee on Health and the Environment, Representative WAXMAN, and Representatives ROYBAL, RINALDO, PEPPER, and REGULA.

The legislation I am introducing today is aimed largely at improving quality in hospital and posthospital settings and ensuring greater access to posthospital services. Shortly, I will be introducing a second bill which will focus on quality of care and patients' rights in nursing homes.

The Medicare Quality Protection Act responds to the many problems uncovered during the Senate Aging Committee's yearlong investigation into quality of care under Medicare's prospective payment system [PPS]. The bill does not seek to dismantle PPS; nor does it impose a new layer of redtape and burdensome regulation on providers. On the contrary, it darns holes and repairs flaws in existing Medicare and Medicaid laws, strengthening quality and access to care while continuing to provide for effective Medicare cost containment.

WHY IS THE MEDICARE QUALITY PROTECTION ACT NECESSARY?

In 1983, Congress acted to save a financially strapped Medicare Program with the prospective payment system. We had confidence that this new reimbursement method could halt spiralling hospital costs and restore solvency. The good news is that our confidence has been rewarded. Hospital costs in 1985 increased by only 6 percent—the lowest rate of increase in the past 20 years.

But Congress also recognized that PPS contained certain inherent incentives to cut back on the level and quality of care provided patients. So Congress charged the peer review organizations with the responsibility of monitoring for quality and sanctioning those providers who would place high profits above good medical practice.

The bad news is that within 1 year of implementation, many physicians and consumers expressed concern that PPS did indeed pose a serious threat to quality of care for Medicare beneficiaries, and might be eroding access to care for the sickest and oldest beneficiaries.

In early December 1984, the American Medical Association published the results of an informal survey of its members. A large majority of those responding said quality of care had already deteriorated, or would deteriorate as a result of PPS. Hospital administrators were reportedly pressuring doctors to violate their own medical judgment in treating patients by discharging patients for a primary conditon and readmitting them for a second, releasing patients prematurely, and taking a more critical look at tests and procedures they ordered.

This AMA study sketched only the basic outlines of what has become a widespread national dilemma of care.

In February 1985, the General Accounting Office released preliminary findings of a study it was conducting at my request on the impact of PPS on posthospital care. Summarizing testimony from hospital, nursing home, and home health agency representatives from six communities around the Nation, the GAO concluded patients were being discharged from hospitals "sicker and quicker" than before PPS and that in too many cases, were being discharged to inappropriate levels of care or no care at all. These findings were echoed in a joint hearing of the House Select Committee on Aging and the Task Force on Rural Elderly on February 26, 1985.

From the beginning, the administration, through the Health Care Financing Administration, chose to deny any deep flaws in the DRG system. I quote from HCFA Administrator Carolyne Davis' own testimony before Congress that "while there have been isolated instances of premature discharge and inappropriate transfer, there has been no evidence of systemic abuse." HCFA argued that the watchdogs of quality, the PRO's, were doing their jobs and that no major problems were developing.

As the agency with administrative and rulemaking responsibility for Medicare, HCFA is critical to the success or failure of the PRO program, the collection of data on quality and access under PPS and the overall operation of prospective reimbursement. But despite well-documented evidence of program abuse, HCFA repeatedly referred to "anecdotal episodes" and failed to make necessary reforms.

In February 1985, the Senate Special Committee on Aging launched its own

investigation into quality of care under PPS. Committee staff visited and collected data from five peer review organizations, and several community and university hospitals. The inquiry involved scores of interviews with Medicare beneficiaries, practicing physicians and nurses, university researchers, personnel from the Health Care Financing Administration, and the Department of Health and Human Services Office of Inspector General. In addition, committee staff gathered and analyzed volumes of records obtained from these organizations and individuals.

The committee's investigation led to three hearings in the fall of 1985: September 26, October 24, and November 12. The committee looked at quality of care issues in hospital and posthospital settings and heard witnesses from 14 States detail a large variety of problems with quality and access. We also heard from a wide-ranging set of experts on ways to respond to the various problems developing under PPS.

The committee found that quality of care problems are widespread. Our most disturbing evidence showed:

Hospitals are pressuring doctors to keep ill people out of the hospital and to discharge others in an unstable condition;

Patients and their families often receive false and incomplete information regarding their rights under the new payment system;

PRO's have only a snapshot picture of quality and feel hamstrung by a "restrictive, underfunded, inflexible, and narrowly focused" review program; and

Too often, patients are discharged to an inappropriate setting for followup care.

The Aging Committee's findings have since been reinforced by the Inspector General of the Department of Health and Human Services. In a new study of premature discharges and inappropriate transfers, Inspector General Richard Kusserow found substantial evidence of premature discharges and inappropriate transfers. He also found that the PRO's had not been effectively using their enforcement powers to address instances of poor quality care. During the period reviewed, October 1, 1983 through May 5, 1985, 14 of the PRO's studied were not reporting premature discharges or inappropriate transfers. The IG concluded that, "therefore, the overall extent of the problem is still not fully known." Quality issues ranged from minor to gross and flagrant violations. Further, Mr. Kusserow placed blame for this problem on the doorstep of HCFA for failing to give clear and consistent guidance to the PRO's as to their quality assurance responsibilities.

The quality abuses documented under the DRG system cannot be halted without a comprehensive strategy for reform. We in the Congress have but one priority in this effort: To restore public confidence in the system and assure quality health care. The Medicare Quality Protection Act is designed with this priority in mind.

The Congressional Budget Office has put a preliminary price tag of $200 million over 3 years on this legislation. Over that same time period we're likely to spend over $200 billion on the Medicare Program. Especially since the prospective payment system is saving the Medicare Program between $3 billion and $4 billion every year, we think less than $70 million a year is a small price to pay for protecting the quality of care under that system.

We introduce the Medicare Quality Protection Act today with the full support of the American Association of Retired Persons, the American Society of Internal Medicine, the National Association of Home Care, the National Council of Senior Citizens, and the American Nurses Association.

A summary of the major findings of the committee and the key provisions of the Medicare Quality Protection Act follow:

I. PROTECTING QUALITY IN ACUTE CARE SETTINGS

(1) Refining the DRGs: Under PPS, patients deemed "DRG losers" by doctors and hospitals—patients with multiple serious conditions—are being prematurely discharged, inappropriately transferred, or refused admission for care. The problem is that DRGs reimburse based on average cost for a principle diagnosis, with no flexibility in payment to account for so-called differences in "severity of illness" among patients with the same diagnosis. Such an inequitable standard for payemnt encourages treatment of the straightforward case and the younger patient over treatment of the heavy care and older patient.

The Heinz-Stark bill requires HHS by January 1, 1988, to develop a PPS patient classification system that reflects variations in severity of illness and case complexity among patients within each diagnosis related group (DRG). HHS would also be required to consider possible changes in outlier policy as an alternative method of accounting for variations in severity and complexity.

2. Inadequate Rights of Appeal: The Aging Committee's investigation revealed that many patients who may wish to present evidence of substandard care or challenge a hospital discharge decision are unaware of their right of appeal, or are given false or incomplete information regarding this right. ProPAC also identified this as a problem in its 1986 Report to HHS and Congress.

At a hearing last fall of the Committee, one witness spoke of the anguish of having to watch her 85-year-old mother be discharged to a substandard nursing home against the doctor's orders and the family's wishes after a 12-day stay in the hospital for two heart attacks and a stroke. Carol Mahla's mother died within a day of being transferred. Two days later, the family received a letter informing them of their rights to appeal the discharge.

Mrs. Mahla' story is not unique. Under pressure from the Senate Aging Committee and consumer organizations, HHS recently improved patient notification procedures by requiring hospitals to provide notice of rights upon admission. But this notice stops short of ensuring that patients will be informed of their rights in a way that is clear and understandable. Current regulations, moreover, give hospitalized patients 48 hours to appeal a discharge before they can be held legally liable for any additional billings. Yet the PROs have three working days to respond to the appeal. This leaves the beneficiary at financial risk of having to pay out-of-pocket for one or more days of hospital care while awaiting a decision from the PRO.

The Medicare Quality Protection Act both improves patient notification and reduces the risk of accumulating out-of-pocket costs for hospital care while awaiting a decision from the PRO. First, HCFA would be required to grant beneficiaries 3 calendar days for appeal after receiving written notification of discharge before they begin to incur liability for a continued stay. Second, PROs would be required to decide appeals of continued stay denials within the same timeframe—3 calendar days.

Finally, in cases where the hospital serves a written notice of discharge but does not express intent to bill for a continued stay, the patient will be granted this same right to appeal. This extension of the appeal right plugs a loophole in the law which often results in the hospital telling patients to leave without informing them they can appeal the discharge decision.

3. Prohibit Incentives or "Kickbacks" that Potentially Lead to Reduced Care: At seven hospitals operated by the Paracelsus Health Care Corporation of Pasadena, California, doctors receive bonuses if costs are kept within DRG range. Similar programs elsewhere in the country also provide a one-to-one compensation of the physician for discharging a patient early. By creating a direct monetary incentive to reduce care, this new form of kickback threatens the well-being of Medicare patients. Current Medicare fraud and abuse law does not address this problem.

The Heinz-Stark bill specifically prohibits physician incentive plans that involve a payment for meeting specific per-case length-of-stay or cost targets. Violators of this provision would be subject to a civil monetary penalty. Additionally, the bill requires HHS to develop legislative recommendations by July 1, 1987 to prohibit or regulate other plans that have the effect of pressuring physicians to discharge patients prematurely or to reduce medically appropriate services.

4. Preserving Existing Quality Protections: The Aging Committee's investigation revealed substantial shortcomings in the existing quality assurance standards under both the Joint Commission for Accreditation of Hospitals and the Medicare Conditions of Participation. Yet even these limited protections face dilution by HHS' proposed revisions of the hospital "Conditions of Participation."

This bill requires that within two years of its enactment, HHS must submit to Congress a study concerning the adequacy of existing quality assurance standards for participating hospitals, including but not limited to consideration of the effect of changes in reimbursement policy since 1982. This provision would send a strong signal to HHS to hold off any regulations that might significantly weaken quality assurance requirements, while the Department examines

ways to improve these requirements in the future.

II. IMPROVING ACCESS TO POST-HOSPITAL CARE

DRGs drive patients out of hospitals quicker and sicker. This finding is not dangerous in and of itself, since days-of-stay often exceeded what was medically necessary under the old system. But sicker and quicker can be hazardous when combined with the fact that post-hospital services are strained by the burden of more patients needing greater levels of care. For some Medicare beneficiaries, post-hospital care is unavailable or substandard.

The fact that the stress on post-hospital services is substantially increasing was confirmed by the General Accounting Office and by dozens of post-hospital care providers interviewed by the Senate Aging Committee's staff. These witnesses testified that more and sicker patients are being released into the community, often to the care of families who are not prepared or able to adequately care for them. One 65-year-old woman, a bilateral amputee with renal failure, with a colostomy, was sent home to an apartment with no running water, to the care of an unreliable 19-year-old grandchild. A 79-year-old woman hospitalized for a complete hip replacement, unable to walk or feed herself, was sent home alone where she was found several days later by a family member.

The Committee also learned that given the shorter length of stay and reduced staff in many hospitals, patients often are too sick to respond positively to educational efforts and nurses are too shorthanded to spend the extra time needed to train the patient or family for home care.

Shortages in home health and nursing home care are aggravated by widespread illegal discrimination against Medicare and Medicaid eligible patients, witnesses told the Committee. Nursing homes prefer the more profitable private-pay patients and those for whom care is less costly.

HCFA has denied that demand for home health and skilled nursing care has significantly increased under PPS. Nevertheless, the Aging Committee's investigation confirmed with data from HCFA internal reports a nearly 40 percent increase in discharges to skilled-nursing and home health care since October 1983.

Options for community services narrow further when quality becomes part of the supply equation. HCFA cites more than 970 nursing homes as chronically substandard. Mrs. Mahla's mother was forced into such a home, where she died after 14 hours. For too many it is a choice of no bed, or a substandard one.

Access to home health and skilled nursing care is also restricted through the administration of the Medicare home health and SNF benefit. William Dombi, attorney from Legal Assistance for Medicare Patients in Connecticut, testified at the Committee's October, 1985 hearing that HCFA has "circumvented the law and subverted the intent of Congress. . . . through oral and written policy directives, all designed to curtail home health and skilled nursing facility coverage." Mr. Dombi went further to assert that "there are two Medicare programs, the one that is on the books under 42 USC Section 1395 [and the one based upon the] directives of the Health Care Financing Administration." Other witnesses from the long-term-care provider community confirmed that "patients cannot be admitted for care because of restrictive HCFA guidelines".

All of these factors contribute to reduced access to post-hospital care for Medicare patients. While some of these problems existed prior to the implementation of PPS, they clearly are magnified by the increased numbers of sicker patients being discharged from our Nation's hospitals. The Medicare Quality Protection Act addresses this problem in the following ways:

1. Require Discharge Planning: Under current law, only hospitals that voluntarily choose to have a Department of Social Work are required to meet Federal rules for discharge planning (and these rules have been criticized as inadequate by health care professionals). HCFA plans to do away with even these lax rules. Existing hospital discharge planning programs—important mechanisms for assuring that patients are placed in appropriate community settings—are seriously overtaxed under PPS, with the result that Medicare patients often receive inadequate post-hospital care.

Take the case of Mrs. S, a 71-year-old woman who was sent home after a six-day hospitalization. She is legally blind, wears a pacemaker, is a diabetic, and has had a stroke and kidney failure. A home health nurse was not called by the discharge planner for four days. When the nurse arrived, she found the patient alone, with no food, taking the wrong medication dosage. This kind of tragedy should not happen.

The Medicare Quality Protection Act would make discharge planning a condition of participation for hospitals in the Medicare program, and for those hospitals deemed "certified" as a result of JCAH accreditation. Hospitals would also be required to have an effective discharge planning process. The bill spells out procedures to be followed when discharging a patient that were recommended by the American Association for Continuity of Care. Upon request of the patient, the attending physician, or someone acting on the patient's behalf, the hospital would be required to provide an initial discharge planning evaluation. Implementation of a final discharge plan would require approval of the attending physician.

2. Require HHS to study the need for Administratively Necessary Days: Many communities have a severe shortage of skilled nursing beds. Hospital patients in need of skilled nursing care in such a community are placed in a life threatening state of limbo. The hospital that keeps the patient ends up either absorbing the cost for the patient's sub-acute days of stay (Medicare covers only acute days of hospital care) or attempting to recover the loss from the patient. Alternatively, the hospital will send the patient home, with or without the necessary medical and social support services. Too often the latter scenario prevails. And as Medicare continues to ratchet down DRG payments to hospitals, making losses on sub-acute patients even less attractive, the number of elderly being discharged to inappropriate settings will rise.

Prior to PPS, Medicare paid for sub-acute care at a reduced rate until the patient could be transferred to a skilled nursing facility. These were referred to as payments for "administratively necessary days." Given the circumstances outlined above, it may be necessary to reinstate these payments. Under the Heinz-Stark bill, HHS is required to conduct a study to determine whether a separate payment should again be made to a hospital for "administratively necessary days," or days of care provided for skilled nursing patients who cannot be promptly discharged to skilled nursing care. The Secretary is required to report back to Congress not later than January 1, 1988.

3. Eliminate Unpredictable Retrospective Denials of Payment for Post-Hospital Care:

Currently, there is a great deal of ambiguity and uncertainty about what Medicare covers for home health or skilled nursing care. This uncertainty is the result of unclear guidelines and vague definitions by HCFA and wide variations in decisions by the fiscal intermediaries (FIs) regarding payment for services needed.

Since the FI makes the coverage decision *after* services have begun, providers can be left without payment for care already delivered. If a potential patient's coverage under Medicare is in doubt, the facility may decide against providing that patient with services.

The Medicare waiver of liability was designed to give limited financial protection to health care providers who accept patients they have good reason to believe are eligible for coverage, but whose claims are denied after care has begun.

Obviously, elimination of this waiver might discourage health care providers from participating in the Medicare home health and skilled nursing program. But just last year, HCFA proposed that Congress do just that. Strong opposition by Members of Congress, providers, and beneficiaries resulted in Senate language in the Reconciliation Bill to extend the waivers. These provisions were agreed to by both Houses in conference on the Consolidated Omnibus Budget Reconciliation Act, and are now part of P.L. 99-272.

The Medicare Quality Protection Act would make permanent the waiver of liability for SNFs and HHAs. In addition, the waiver of liability would be extended to include denials made because it was determined that the patient failed to meet the homebound or intermittency requirements for home health coverage under Medicare. The bill also provides for an expedited retrospective review process, ensuring that the waiver will continue until the review determination is made by the fiscal intermediary. Finally, the bill enables providers to appeal denials of home health and SNF coverage on behalf of beneficiaries.

4. HHS to develop a Uniform Needs Assessment Instrument:

Currently, there is no basis for judging how effectively health care services meet the needs of long term care patients or of ensuring that long term care patients are given the appropriate types or levels of care. A needs assessment tool can help providers to: 1) objectively and consistently evaluate the health care needs of long term care patients and 2) match those needs with appropriate available long term care services. In this way, we can ensure that long term care patients have access to needed health care services and that the long term care system can be wisely developed based on actual patient needs.

The Medicare Quality Protection Act requires HHS to develop, within one year of enactment, a uniform needs assessment instrument that evaluates: 1) the functional capacity of an individual; 2) the nursing and other care requirements of the individual to meet health care needs and to assist with functional incapacities; and 3) the social and familial resources available to the individual to meet those requirements. This instrument shall be developed for the use of discharge planners, hospital and post-hospital providers, and fiscal intermediaries in evaluating an individual's need for post-hospital

extended care, home health, and other long-term care services.

III. IMPROVING FOR QUALITY ASSURANCE

HCFA has focused the PROs on a very narrow and incomplete set of quality issues; therefore HCFA's assessment of quality of care is grossly deficient. When the Aging Committee began its investigation in February, 1985, the quality assurance activities of the PROs were extremely limited. Hampered by HCFA's inconsistent and often unreasonable instructions, the PROs were only identifying the tip of the iceberg of quality problems developing under PPS. I am pleased to report that progress has been made in improving the ability of the PROs to monitor quality of care, and to exclude unfit providers and hospitals from delivering care to Medicare beneficiaries. But there are miles to go before the PROs are able to fully and effectively carry out their mandate as the watchdogs of quality under the Medicare program.

Under the new round of PRO contracts, now being negotiated with HCFA, the PROs' scope of review for premature discharges will be limited to those cases where the patient is readmitted to a hospital within fifteen days, and to those instances of possible substandard care that can be detected from using generic quality screens. This means that cases of readmission after fifteen days or to hospitals outside the PRO area, deaths after premature or inappropriate discharge, denials of admission, inappropriate placement out of the hospital and lack of adequate care in the community will still not be reviewed by a PRO.

Thomas Dehn, M.D., President of the American Medical Peer Review Association, testified to the Aging Committee that HCFA primarily wants data from the PROs on utilization of stay—i.e., number of admissions, costs per admission etc.—and is less concerned with quality review. AMPRA's report, "PROs: The Future Agenda", dated September 1985 and prepared by their Task Force on PRO Implementation, states that "The present quality assurance system required under PRO contracts is limited, restrictive, and lacks the innovation needed at a time when the incentives of PPS raise the potential for compromised care. The imposition of quality objectives presupposes baseline data that can validate the existence of quality problems. Given the advent of prospective payment, no such data is available across a wide spectrum of in-patient care to the elderly. Only now are quality care concerns surfacing."

The PROs would thus like to broaden their quality review activities, and to review on a sample basis, quality problems beyond the hospital door. They can only do this, however, if they are given adequate funding and consistent guidelines from HCFA. In reviewing PRO performance, HCFA should give at least equal weight to quality assurance activities as is given to utilization review. In addition, HCFA must establish workable data transfers from the hospital to the PROs that will facilitate timely and efficient quality review.

The Aging Committee also heard from Medicare beneficiaries that PROs often are slow or completely fail to respond to their complaints about quality problems. Nor is there a mechanism to provide for beneficiary participation in decisions affecting PRO activity.

The Medicare Quality Protection Act takes a number of steps to address these problems:

1. Expand PRO Review of Quality of Care: Under the Heinz-Stark bill, PROs will be required to review selected samples of readmissions to hospitals within 30 days. They will also be required to review quality of care in selected home health, nursing, board and care homes, and outpatient hospital settings where they have identified potential quality problems. Finally, the bill requires hospitals to submit monthly data to enable PROs to perform reviews on a timely basis.

2. Allocate PRO Funds to Ensure Increased Quality Care Review: The Medicare Quality Protection Act requires that each PRO provide that a reasonable proportion of its activities are involved with reviewing the quality of services provided in cases and settings for which potential problems of quality have been identified.

3. Improve PRO Accountability to Medicare Beneficiaries: The Heinz-Stark bill would require each PRO to appoint a consumer representative to its board. In addition, PROs would be required to investigate all written complaints about quality of care filed by a beneficiary (or a person acting on behalf of a beneficiary). HHS would develop appropriate procedures for investigating and responding to these complaints. These procedures would provide protection of the confidentiality of the complainant and provide that the PRO's report their findings to the complainant.

IV. IMPROVING DATA ON QUALITY OF CARE UNDER PPS

According to the GAO, HHS lacks any statistically valid basis to confirm or deny the effect of DRGs on the quality of health care older Americans need or receive upon discharge from the hospital. According to GAO testimony, HHS does not have the necessary data to evaluate whether PPS has either increased or decreased the quality, access, demand, use or cost of post-hospital care for Medicare beneficiaries. Furthermore, HHS is not planning to do the types of evaluations that are necessary to determine whether PPS is the cause of changes in these five areas.

1. HHS to Develop a Long-Term Quality Assurance and Review Strategy: The Heinz-Stark bill requires HHS to provide for a study to serve as the basis for establishing a strategy for reviewing and assuring the quality of care under Medicare. In developing this study, HHS shall consult with consumer groups, PROs, the Joint Commission on Accreditation of Hospitals, professional societies and private purchasers of health care with experience and expertise in monitoring the quality of care.

2. Extend HHS reporting requirements on quality in post-hospital settings: HHS is currently required to report on an annual basis on the impact of PPS. For these reports to be useful, they need to cover PPS effects on both hospital and post-hospital care. Under the Quality Assurance Act, HHS would be required to provide three annual impact reports providing (1) an evaluation of quality assessment and assurance is the "continuum of care"; (2) an assessment of access problems of special beneficiary populations; and (3) data on Part A and Part B beneficiary appeals.

3. Sharing of Confidential Information Regarding Quality of Care: There is a woeful lack of information exchanged about problem health care facilities. Thus, hospital discharge planners are sometimes unaware that they are sending a patient to a substandard nursing home. Under the Medicare Quality Protection Act, instances of gross and flagrant patient neglect as well as patterns of poor quality care, could be shared with selected federally-funded quality assurance officials, provided that adequate assurance of confidentiality can be provided.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2331

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Quality Protection Act of 1986".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—QUALITY ASSURANCE IN INPATIENT HOSPITAL SETTINGS

Sec. 101. Refinement of prospective payment system.
Sec. 102. Requiring notice of hospital discharge rights.
Sec. 103. PRO review of hospital denial notices.
Sec. 104. Prohibition of certain physician incentive plans.
Sec. 105. Review of standards for medicare conditions of participation for assuring quality of inpatient hospital services.
Sec. 106. Study of payment for administratively necessary days.

TITLE II—ACCESS TO APPROPRIATE POST-HOSPITAL CARE

Sec. 201. Requiring hospitals to provide discharge planning process.
Sec. 202. Extension of waiver of liability provisions to certain coverage denials for home health services.
Sec. 203. Continuing favorable presumption of waiver of liability for skilled nursing facilities and home health agencies.
Sec. 204. Development of uniform needs assessment instrument.
Sec. 205. Expedited review by fiscal intermediaries.
Sec. 206. Prompt response to inquiries concerning exhaustion of medicare skilled nursing facility benefit.
Sec. 207. Provider representation of beneficiaries on appeals and permitting appeal of certain technical denials.
Sec. 208. Including in annual reports on prospective payment system information on quality of post-hospital care.

TITLE III—IMPROVED REVIEW OF QUALITY BY PEER REVIEW ORGANIZATIONS

Sec. 301. PRO review of inpatient hospital services and early readmission cases.
Sec. 302. Requiring PRO review of quality of care.
Sec. 303. Requiring consumer representative on peer review boards.
Sec. 304. Improving peer review responsiveness to beneficiary complaints.
Sec. 305. Sharing of information by peer review organizations.

TITLE IV—STUDY TO DEVELOP A STRATEGY FOR QUALITY REVIEW AND ASSURANCE

Sec. 401. Study to develop a strategy for quality review and assurance.

TITLE I—QUALITY ASSURANCE IN INPATIENT HOSPITAL SETTINGS

SEC. 101. REFINEMENT OF PROSPECTIVE PAYMENT SYSTEM.

(a) DEVELOPMENT OF LEGISLATIVE PROPOSAL.—The Secretary of Health and Human Services shall develop and submit to Congress a specific legislative proposal to improve the classification and payment system under section 1886(d) of the Social Security Act (and, as appropriate, the system for payment of outliers under section 1886(d)(5)(A) of such Act) in order to assure that the amount of payment per discharge approximates the cost of medically necessary care provided in an efficient manner for individual patients or classes of patients with similar conditions.

(b) ACCOUNTING FOR SEVERITY OF ILLNESS.—In developing the proposal, the Secretary shall account for variations in severity of illness and case complexity which are not adequately accounted for by the current classification and payment system.

(c) DEADLINE.—The proposal shall be submitted to Congress by not later than January 1, 1988.

SEC. 102. REQUIRING NOTICE OF HOSPITAL DISCHARGE RIGHTS.

(a) REQUIREMENT FOR HOSPITALS TO PROVIDE STATEMENT.—Section 1866(a)(1) of the Social Security Act (42 U.S.C. 1395cc(a)(1)), as amended by sections 9121(a), 9122(a), and 9403(b) of the Consolidated Omnibus Budget Reconciliation Act of 1985, is amended—

(1) by striking "and" at the end of the subparagraph (I) inserted by section 9121(a) of such Act,

(2) by striking the period at the end of subparagraph (J) and inserting a comma,

(3) by redesignating the subparagraph (I) inserted by section 9403(b) of such Act as subparagraph (K) and by inserting it after subparagraph (J), and

(4) by inserting after subparagraph (K) the following new subparagraph:

"(L) in the case of hospitals, to provide to each individual who is entitled to benefits under part A (or to a legally responsible person or persons acting on the individual's behalf), at or about the time of the individual's admission as an inpatient to the hospital, a written statement (containing such language as the Secretary prescribes consistent with this paragraph) which explains—

"(i) the individual's rights to benefits for inpatient hospital services and for post-hospital services under this title,

"(ii) the circumstances under which such an individual will and will not be liable for charges for continued stay in the hospital,

"(iii) the individual's right to appeal denials of benefits for continued inpatient hospital services, including the practical steps to initiate such an appeal, and

"(iv) the individual's liability for payment for services if such a denial of benefits is upheld on appeal."

(b) EFFECTIVE DATE.—The Secretary of Health and Human Services shall first prescribe the language required under section 1866(a)(1)(L) of the Social Security Act not later than six months after the date of the enactment of this Act. The requirement of such section shall apply to admissions to hospitals occurring on such date (not later than 60 days after the date such language is first prescribed) as the Secretary shall provide.

SEC. 103. PRO REVIEW OF HOSPITAL DENIAL OVER NOTICES.

(a) IN GENERAL.—Section 1154 of the Social Security Act (42 U.S.C. 1320c-3) is amended by adding at the end the following new subsection:

"(d)(1) If—

"(A) a hospital has determined that a patient no longer requires inpatient hospital care, and

"(B) the attending physician has agreed with the hospital's determination,

the hospital may provide the patient (or the patient's representative) with a notice (meeting conditions prescribed by the Secretary under section 1879) of the determination.

"(2) If—

"(A) a hospital has determined that a patient no longer requires inpatient hospital care, but

"(B) the attending physician has not agreed with the hospital's determination,

the hospital may request the appropriate peer review organization to review under subsection (a) the validity of the hospital's determination.

"(3) If a patient (or a patient's representative)—

"(A) has received a notice under paragraph (1), and

"(B) while the patient is still an inpatient in the hospital, requests the appropriate peer review organization to review the determination,

then, the organization shall conduct a review under subsection (a) of the validity of the hospital's determination and shall provide notice (by telephone and in writing) to the patient or representative of the results of the review not later than 2 calendar days after the date the organization receives the request. Such review shall be conducted regardless of whether or not the hospital will charge for continued hospital care or the patient will be liable for payment for such continued care.

"(4) If—

"(A) a request is made under paragraph (3) not later than 1 day after the date the patient (or patient's representative) receives the notice under paragraph (1), and

"(B) the conditions described in section 1879(a)(2) with respect to the patient or representative are met,

the hospital may not charge the patient for inpatient hospital services furnished on a day before the fourth day that begins after the date of receipt of the notice under paragraph (1).

"(5) In any review conducted under paragraph (2) or (3), the organization shall solicit the views of the patient involved (or the patient's representative)."

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to denial notices furnished by hospitals to individuals on and after the first day of the first month that begins more than 30 days after the date of the enactment of this Act.

(2) Section 1154(d)(4) of the Social Security Act (as added by the amendment made by subsection (a)) shall take effect on the date of the enactment of this Act.

SEC. 104. PROHIBITION OF CERTAIN PHYSICIAN INCENTIVE PLANS.

(a) MAKING CERTAIN PLANS SUBJECT TO CIVIL MONETARY PENALTIES.—Section 1128A of the Social Security Act (42 U.S.C. 1320a-7a) is amended—

(1) by striking "subsection (a)" each place it appears and inserting "subsection (a) or (b)",

(2) in subsection (f), by striking "subsection (d)" and inserting "subsection (e)",

(3) by redesignating subsections (b) through (h) as subsection (c) through (i), respectively, and

(4) by inserting after subsection (a) the following new subsection:

"(b)(1) If—

"(A) a hospital makes a payment, directly or indirectly, to a physician as an inducement to reduce the length of stay or services provided with respect to an identifiable patient (who is entitled to benefits under part A of title XVIII), and

"(B) the payment is based on a specific length of stay or targeted amount of services with respect to the patient,

the hospital shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of twice the amount of the payment plus an amount of not more than $2,000 for each patient with respect to which the payment is made.

"(2) Any physician who knowingly accepts receipt of a payment described in paragraph (1) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of twice the amount of the payment plus an amount of not more than $2,000 for each patient with respect to which the payment is made."

(b) STUDY OF ADDITIONAL SANCTIONS.—The Secretary of Health and Human Services shall develop and report to Congress, not later than July 1, 1987, on specific legislative changes that should be made to prohibit other physician incentive plans that have the effect of pressuring physicians improperly to discharge patients from hospitals before their discharge is medically appropriate or to reduce medically appropriate services.

SEC. 105. REVIEW OF STANDARDS FOR MEDICARE CONDITIONS OF PARTICIPATION FOR ASSURING QUALITY OF INPATIENT HOSPITAL SERVICES.

The Secretary of Health and Human Services shall arrange for a study the adequacy of the standards used for hospitals, for purposes of meeting the conditions of participation under title XVIII of the Social Security Act, in assuring the quality of services furnished in the hospitals. The Secretary shall report to Congress on the results of the study by not later than 2 years after the date of the enactment of this Act.

SEC. 106. STUDY OF PAYMENT FOR ADMINISTRATIVELY NECESSARY DAYS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study—

(1) to determine—

(A) the extent to which costs of hospitals attributable to administratively necessary days have been incorporated into payments under section 1886(d) of the Social Security Act, and

(B) to the extent they have been, the extent to which the distribution among hospitals of payments under such section relating to such costs actually reflects such hospitals' costs for administratively necessary days; and

(2) to determine whether a payment should be made (in a budget-neutral manner under title XVIII of such Act to hospitals receiving payments under section 1886(d) of such Act) to a hospital for administratively necessary days, separate from the per-discharge and outlier payments made under such section.

(b) ADMINISTRATIVELY NECESSARY DAYS DEFINED.—In this section, an "administratively necessary day" is a day of continued inpatient hospital stay, for an individual entitled to benefits under part A of title XVIII of the Social Security Act, necessitated by a delay in obtaining placement for the individual in a skilled nursing facility.

(c) CONSIDERATIONS IN CONDUCTING STUDY.—In conducting the study, the Secretary shall consider—

(1) the need for such a payment in order to minimize—

(A) the disproportionate financial impact of current law on certain hospitals (or hospitals in certain locations) due to difficulties in arranging for appropriate post-hospital care, such as difficulties resulting from a shortage of beds in skilled nursing facilities where those hospitals are located and from the source of payment for such care, and

(B) the risk of inappropriate discharge to a non-institutional or inappropriate institutional setting of individuals who need post-hospital services in a skilled nursing facility, and

(2) the administrative mechanisms that can be used to prevent inappropriate payments for administratively necessary days.

(d) REPORT ON STUDY.—The Secretary shall report to Congress on the results of the study not later than January 1, 1988.

TITLE II—ACCESS TO APPROPRIATE POST-HOSPITAL CARE

SEC. 201. REQUIRING HOSPITALS TO PROVIDE DISCHARGE PLANNING PROCESS.

(a) REQUIREMENT AS CONDITION OF PARTICIPATION.—Section 1861(e)(6) of the Social Security Act (42 U.S.C. 1395x(e)(6)) is amended—

(1) by inserting "(A)" after "(6)", and

(2) by inserting before the semicolon at the end the following: "and (B) has in place a discharge planning process that meets the requirements of subsection (ee)".

(b) DISCHARGE PLANNING PROCESS.—Section 1861 of such Act is further amended by adding at the end the following new subsection:

"Discharge Planning Process

"(ee)(1) A discharge planning process of a hospital shall be considered sufficient if it is applicable to services furnished by the hospital to individuals entitled to insurance benefits under this title and if it meets the guidelines and standards established by the Secretary under paragraph (2).

"(2) The Secretary shall develop guidelines and standards for the discharge planning process in order to ensure a timely and smooth transition to the most appropriate type of and setting for post-hospital or rehabilitative care. The guidelines and standards shall include the following:

"(A) The hospital must identify, at an early stage of hospitalization, those patients who are likely to suffer adverse health consequences upon discharge in the absence of adequate discharge planning.

"(B) Hospitals must provide a discharge planning evaluation for patients identified under subparagraph (A) and for other patients upon the request of the patient, patient's representative, or patient's physician.

"(C) Any discharge planning evaluation must be made on a timely basis to ensure that appropriate arrangements for post-hospital care will be made before discharge and to avoid unnecessary delays in discharge.

"(D) A discharge planning evaluation must include an evaluation of a patient's likely need for appropriate post-hospital services and the availability of those services.

"(E) The results of a discharge planning evaluation must be made available to the patient (or the patient's representative) and the patient's physician for use in establishing an appropriate discharge plan.

"(F) Upon the request of a patient's physician, the hospital must arrange for the development and initial implementation of a discharge plan for the patient.

"(G) Any discharge planning evaluation or discharge plan required under this paragraph must be developed by, or under the supervision of, a registered professional nurse, social worker, or other appropriately qualified personnel."

(c) EFFECT OF ACCREDITATION.—The second sentence of section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended—

(1) by inserting ", requires a discharge planning process (or imposes another requirement which services substantially the same purpose)," after "the same purpose)", and

(2) by inserting "clause (A) or (B) of" after "comply also with".

(d) EFFECTIVE DATE.—The requirements of section 1861(ee) of the Social Security Act shall apply to agreements entered into with hospitals, under section 1866 of the Social Security Act, on or after one year after the date of the enactment of this Act.

SEC. 202. EXTENSION OF WAIVER OF LIABILITY PROVISIONS TO CERTAIN COVERAGE DENIALS FOR HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1879 of the Social Security Act (42 U.S.C. 1395pp) is amended—

(1) in subsection (a)(1), by inserting "or by reason of a coverage denial described in subsection (f)" after "section 1862(a)(1) or (9)";

(2) in the first sentence of subsection (a), by inserting "and as though the coverage denial described in subsection (f) had not occurred" before the period at the end;

(3) in the third sentence, by inserting "or by reason of a coverage denial described in subsection (f)" after "section 1862(a)(1) or (9)";

(4) in subsection (c), by inserting "or by reason of a coverage denial described in subsection (f)" after "section 1862(a)(1) or (9)"; and

(5) by adding at the end the following new subsection:

"(f) The coverage denial described in this subsection is, with respect to the provision of home health services to an individual, a failure to meet the requirements of section 1814(a)(2)(C) or 1835(a)(2)(A) in that the individual—

"(1) is or was not confined to his home, or

"(2) does or did not need skilled nursing care on an intermittent basis or physical, speech, or occupational therapy."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to coverage denials occurring on or after the first day of the first month that begins more than 90 days after the date of the enactment of this Act.

SEC. 203. CONTINUING OF FAVORABLE PRESUMPTION OF WAIVER OF LIABILITY FOR SKILLED NURSING FACILITIES AND HOME HEALTH AGENCIES.

(a) IN GENERAL.—Section 1879 of the Social Security Act (42 U.S.C. 1395pp), as amended by section 202, is further amended by adding at the end the following new subsection:

"(g)(1)(A) A skilled nursing facility which meets the applicable requirements of paragraphs (3) and (4) shall be presumed to meet the requirement of subsection (a)(2) with respect to denials of coverage by reason of section 1862(a)(1) or (9).

"(B) A home health agency which meets the applicable requirements—

"(i) of paragraphs (3) and (4) shall be presumed to meet the requirement of subsection (a)(2) with respect to denials of coverage by reason of section 1862(a)(1) or (9), and

"(ii) of paragraphs (3) and (5) shall be presumed to meet the requirement of subsection (a)(2) with respect to any coverage denial described in subsection (f).

"(2) The presumption of paragraph (1) with respect to specific services may be rebutted by actual or imputed knowledge of the facts described in subsection (a)(2), including any of the following:

"(A) Notice by the fiscal intermediary of the fact that payment may not be made under this title with respect to the services.

"(B) In the case of a skilled nursing facility, the committee or group responsible for the conduct of utilization review for the facility has informed the facility that payment may not be made under this title with respect to the services.

"(C) It is clear and obvious that the provider should have known at the time the services were furnished that they were excluded from coverage.

"(3) The requirements of this paragraph are as follows:

"(A) The facility or agency complies with requirements of the Secretary under this title respecting timely submittal of bills for payment and medical documentation.

"(B) The facility or agency has reasonable procedures to notify promptly each patient (and the patient's physician) where it is determined that a patient is being or will be furnished items or services which are excluded from coverage under this title.

"(4) The requirement of this paragraph is that, on the basis of bills submitted by the facility or agency during the previous quarter, the rate of denial of bills by reason of section 1862(a)(1) or (9) for the facility or agency does not exceed—

"(A) 5 percent, in the case of skilled nursing facilities computed based on days of post-hospital extended care services care covered, or

"(B) 2.5 percent, in the case of home health agencies computed based on visits for home health services covered.

"(5) The requirement of this paragraph is that, on the basis of bills submitted by a home health agency during the previous quarter, the rate of denial of bills for the agency by reason of a coverage denial described in subsection (f) does not exceed 2.5 percent, computed based on visits for home health services covered.

"(6) The Secretary, annually, shall report to Congress—

"(A) information on the frequency and distribution (by types of providers) of denials referred to in paragraphs (4) and (5), including—

"(i) the reasons for such denials,

"(ii) the extent to which payments were nonetheless made because of this section, and

"(iii) the rate of reversals of such denials, and

"(B) such other information as may be appropriate to evaluate the appropriateness of the percentage standards established under such paragraphs (4) and (5).

"(7) In this subsection, the term 'fiscal intermediary' means, with respect to a skilled nursing facility or home health agency, an agency or organization with an agreement

under section 1816 with respect to the facility or agency and includes, with respect to a home health agency, a carrier with a contract under section 1842 with respect to the agency."

(b) REPEALING DUPLICATIVE PROVISIONS.—Section 9205 of the Consolidated Omnibus Budget Reconciliation Act of 1985, and subsection (c) of section 9126 of such Act, are repealed.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to services for which a notice of coverage denial (described in section 1879(f) of the Social Security Act) is made on or after the first day of the first calendar quarter that begins at least 90 days after the date of the enactment of this Act.

SEC. 204. DEVELOPMENT OF UNIFORM NEEDS ASSESSMENT INSTRUMENT.

(a) DEVELOPMENT.—The Secretary of Health and Human Services shall develop a uniform needs assessment instrument that—

(1) evaluates—

(A) the functional capacity of an individual,

(B) the nursing and other care requirements of the individual to meet health care needs and to assist with functional incapacities, and

(C) the social and familial resources available to the individual to meet those requirements; and

(2) can be used by discharge planners, hospitals, nursing facilities, other health care providers, and fiscal intermediaries in evaluating an individual's need for post-hospital extended care services, home health services, and long-term care services of a health-related or supportive nature.

(b) ADVISORY PANEL.—The Secretary shall develop the instrument in consultation with an advisory panel, appointed by the Secretary, that includes experts in the delivery of post-hospital extended care services, home health services, and long-term care services and representatives of skilled nursing facilities, of home health agencies, of long-term care providers, of fiscal intermediaries, and of medicare beneficiaries.

(c) REPORT ON INSTRUMENT.—The Secretary shall report to Congress, not later than 1 year after the date of the enactment of this Act, on the instrument developed under this section. The report shall include an evaluation of the advantages and disadvantages of using the instrument as the basis for determining whether payment should be made for post-hospital extended care services and home health services provided to individuals entitled to benefits under part A of title XVIII of the Social Security Act.

SEC. 205. EXPEDITED REVIEW BY FISCAL INTERMEDIARIES.

(a) IN GENERAL.—Section 1879 of the Social Security Act (42 U.S.C. 1395pp), as amended by sections 202 and 203 of this title, is further amended by adding at the end the following new subsection:

"(h) The Secretary shall develop procedures to expedite the determination of whether initial claims submitted for post-hospital extended care services and home health services provided (or to be provided) to an individual may be reimbursed under this title, so as to minimize the time between (1) when the provider first provides the services to the individual, and (2) when the provider first receives notice of an initial determination on whether or not payment may be made under this title for some or all of the services provided the individual."

(b) EFFECTIVE DATE.—The Secretary of Health and Human Services shall provide for the expedited procedures described in section 1879(h) of the Social Security Act not later than one year after the date of the enactment of this Act.

SEC. 206. PROMPT RESPONSE TO INQUIRIES CONCERNING EXHAUSTION OF MEDICARE SKILLED NURSING FACILITY BENEFIT.

The Secretary of Health and Human Services shall provide, in the administration of part A of title XVIII of the Social Security Act and by not later than 9 months after the date of the enactment of this Act, for a response within 24 hours to any inquiry by a beneficiary (and to any inquiry by a hospital or skilled nursing facility with the beneficiary's consent) to the Secretary concerning whether the beneficiary's benefits under section 1812(a)(2) of such Act (relating to post-hospital extended care services) have been exhausted.

SEC. 207. PROVIDER REPRESENTATION OF BENEFICIARIES ON APPEALS AND PERMITTING APPEAL OF CERTAIN TECHNICAL DENIALS.

(a) PERMITTING PROVIDER REPRESENTATION OF BENEFICIARIES.—Section 1869(b)(1) of the Social Security Act (42 U.S.C. 1395ff(b)(1)) is amended by adding at the end the following new sentence: "Sections 206(a), 1102, and 1871 shall not be construed as authorizing the Secretary to prohibit an individual from being represented under this subsection by a person that furnishes or supplies the individual, directly or indirectly, with services or items solely on the basis that the person furnishes or supplies the individual with such a service or item.".

(b) PERMITTING REVIEW OF TECHNICAL DENIALS.—Section 1869 of such Act is further amended—

(1) in subsection (a), by inserting ", the amount of benefits with respect to home health services under part B, and any other determination with respect to a claim for benefits under part A" after "part A,", and

(2) in subsection (b)(1)—

(A) by striking "or" at the end of subparagraph (B),

(B) by inserting ", or" at the end of subparagraph (C), and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) any other denial (other than under part B of title XI) of a claim for benefits under part A or a claim for benefits with respect to home health services under part B,".

(c) EFFECTIVE DATE.—The amendment made by this section take effect on the date of the enactment of this Act.

SEC. 208. INCLUDING IN ANNUAL REPORTS ON PROSPECTIVE PAYMENT SYSTEM INFORMATION ON QUALITY OF POST-HOSPITAL CARE.

(a) IN GENERAL.—Section 603(a)(2) of the Social Security Amendments of 1983 is amended—

(1) by striking "1987" in subparagraph (A) and inserting "1989", and

(2) by adding at the end the following new subparagraph:

"(E) In each annual report to Congress under subparagraph (A), the Secretary shall include—

"(i) an evaluation of the adequacy of the procedures for assuring quality of post-hospital services furnished under title XVIII of the Social Security Act,

"(ii) an assessment of problems that have prevented groups of medicare beneficiaries (including those eligible for medical assistance under title XIX of such Act) from receiving appropriate post-hospital services covered under such title, and

"(iii) information on reconsiderations and appeals taken under title XVIII of such Act with respect to payment for post-hospital services."

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall apply to reports for years beginning with 1986.

TITLE III—IMPROVED REVIEW OF QUALITY BY PEER REVIEW ORGANIZATIONS

SEC. 301. PRO REVIEW OF INPATIENT HOSPITAL SERVICES AND EARLY READMISSION CASES.

(a) TIMELY PROVISION OF HOSPITAL INFORMATION.—Section 1153 of the Social Security Act (42 U.S.C. 1320c-2) is amended by adding at the end the following new subsection:

"(g) The Secretary shall provide that peer review organizations receive, each month on a timely basis, data from hospitals necessary to initiate the review process under section 1154(a) on a timely basis."

(b) REQUIRING REVIEW OF EARLY READMISSION CASES.—Section 1154(a) of such Act (42 U.S.C. 1320c-3(a)), as amended by section 9401(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, is amended by adding at the end the following new paragraph:

"(13) Notwithstanding paragraph (4), the organization shall perform the review described in paragraph (1) with respect to early readmission cases to determine if the previous inpatient hospital services and the post-hospital services met professionally recognized standards of health care. Such reviews may be performed on a sample basis if the organization and the Secretary determine it to be appropriate. In this paragraph, an 'early readmission case' is a case in which an individual, after discharge from a hospital, is readmitted to a hospital less than 31 days after the date of the most recent previous discharge."

(c) EFFECTIVE DATES.—(1) The Secretary shall implement the amendment made by subsection (a) not later than 6 months after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to contracts entered into or renewed on or after January 1, 1987.

SEC. 302. REQUIRING PRO REVIEW OF QUALITY OF CARE.

(a) ALLOCATION OF FUNDS FOR QUALITY CARE REVIEW.—Section 1154(a)(4) of the Social Security Act (42 U.S.C. 1320c-3(a)(4)) is amended by adding at the end the following: "Each peer review organization shall provide that a reasonable proportion of its activities are involved with reviewing, under paragraph (1)(B), the quality of services and that a reasonable allocation of such activities is made among the different cases and settings (including post-acute-care settings, ambulatory settings, and health maintenance organizations) for which potential problems of quality have been identified.".

(b) IDENTIFICATION OF METHODS FOR IDENTIFYING CASES OF SUBSTANDARD CARE.—Section 1154 of such Act (42 U.S.C. 1320c-3), as amended by section 103(a) of this Act is amended by adding at the end the following new subsection:

"(e) The Secretary, in consultation with appropriate experts, shall identify methods that would be available to assist peer review organizations (under subsection (a)(4)) in identifying those cases which are more likely than others to be associated with a quality of services which does not meet pro-

fessionally recognized standards of health care."

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply to contracts entered into or renewed on or after January 1, 1987.

(2) The amendment made by the subsection (b) becomes effective on the date of the enactment of this Act.

SEC. 303. REQUIRING CONSUMER REPRESENTATIVE ON PEER REVIEW BOARDS.

(a) IN GENERAL.—Section 1152 of the Social Security Act (42 U.S.C. 1320c-1) is amended—

(1) by striking "and" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting "; and", and

(3) by adding at the end the following new paragraph:

"(3) has at least one individual who is a representative of consumers on its board of directors."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to contracts entered into or renewed on or after January 1, 1987.

SEC. 304. IMPROVING PEER REVIEW RESPONSIVENESS TO BENEFICIARY COMPLAINTS.

(a) APPROPRIATE INVESTIGATION OF COMPLAINTS REQUIRED.—Section 1154(a) of the Social Security Act (42 U.S.C. 1320c-3(a)), as amended by section 301(a) of this title, is further amended by adding at the end the following new paragraph:

"(14) The organization shall conduct an appropriate investigation of all written complaints about the quality of services (for which payment may otherwise be made under title XVIII) not meeting professionally recognized standards of health care, if the complaint is filed with the organization by a individual entitled to benefits for such services under such title (or a person acting on the individual's behalf). The fact that such a complaint is made and the name of the complainant shall be treated as confidential. The organization shall inform the individual (or representative) of the organization's findings respecting the complaint."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to complaints received on or after the first day of the first month that begins at least 9 months after the date of the enactment of this Act.

SEC. 305. SHARING OF INFORMATION BY PEER REVIEW ORGANIZATIONS.

(a) IN GENERAL.—Section 1160(b)(1) of the Social Security Act (42 U.S.C. 1320c-9(b)(1)) is amended—

(1) in subparagraph (C), by striking "is required" and inserting "are required",

(2) by striking "and" at the end of subparagraph (B), and

(3) by adding at the end the following new subparagraph:

"(D) to assist—

"(i) national accreditation bodies which are acting, pursuant to section 1865, in accrediting providers for purposes of meeting the conditions described in provisions in title XVIII, and

"(ii) State ombudsmen and State protection and advocacy officials who the Secretary identifies as having responsibility for assuring the quality of care furnished by providers or practitioners,

which data and information shall be provided by the peer review organization to any such body, ombudsman, or official upon request relating to a specific provider or practitioner, but only to the extent that such data and information are related to the quality of care furnished by a provider or practitioner and only if the peer review organization determines that the data and information may reflect a failure in a substantial number of cases or a gross and flagrant failure in one or more instances to provide services of a quality which meets professionally recognized standards of health care, and that the data and information are needed by the body, ombudsman, or official in carrying out official duties;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to requests for data and information made on and after the end of the 6-month period beginning on the date of the enactment of this Act.

TITLE IV—STUDY TO DEVELOP A STRATEGY FOR QUALITY REVIEW AND ASSURANCE

SEC. 401. STUDY TO DEVELOP A STRATEGY FOR QUALITY REVIEW AND ASSURANCE.

(a) IN GENERAL.—The Secretary of Health and Human Services shall arrange for a study to serve as the basis for establishing a strategy for reviewing and assuring the quality of care for which payment may be made under title XVIII of the Social Security Act (the medicare program).

(b) ITEMS INCLUDED IN STUDY.—Among other items, the study shall—

(1) identify the appropriate considerations which should be used in defining "quality of care";

(2) evaluate the relative roles of structure, process, and outcome standards in assuring quality of care;

(3) consider whether criteria and standards for defining and measuring quality of care should be developed and, if so, how this should be done;

(4) evaluate the adequacy and focus of the current methods for measuring, reviewing, and assuring quality of care;

(5) evaluate the current research on methodologies for measuring quality of care, and suggest areas of research needed for further progress;

(6) evaluate the adequacy and range of methods available to correct or prevent identified problems with quality of care;

(7) review mechanisms available for coordinating and supervising at the national level quality review and assurance activities; and

(8) develop general criteria which may be used in establishing priorities in the allocation of funds and personnel in reviewing and assuring quality of care.

(c) REPORT.—The Secretary shall submit to Congress, not later than 2 years after the date of the enactment of this Act, a report on the study. Such report shall address the items described in subsection (b) and shall include recommendations with respect to strengthening quality assurance and review activities for services furnished under the medicare program.

(d) CONSULTATION IN STUDY.—In developing plans for the conduct of the study, the Secretary shall assure that consumer and provider groups, peer review organizations, the Joint Commission on Accreditation of Hospitals, professional societies, and private purchasers of care with experience and expertise in the monitoring of the quality of care are consulted.●

● Mr. GLENN. Mr. President, as ranking Democratic member of the Senate Special Committee on Aging, I am pleased to be an original cosponsor of the Medicare Quality Protection Act of 1986—a major Aging Committee initiative.

With the enactment of the prospective payment system [PPS] based on diagnosis-related groups [DRG's], we dramatically changed the nature of Medicare reimbursement to hospitals. We knew then that with these major changes, we would need to guard against new forms of program abuse and/or misunderstandings that might crop up, in addition to shortcomings of the payment system itself. This past fall, the Aging Committee held three hearings to examine the Medicare program, in terms of quality and access to care in the hospital setting and following discharge from a hospital. The legislation which we are introducing today reflects the findings of that series of hearings.

The Medicare Quality Protection Act includes many desirable and good policy objectives that should result in fairer reimbursement rates to hospitals and better patient care. Under current law, DRG payments are packaged by the average cost of a single diagnosis, with "outlier" payments for exceptional cases. However, as our hearings pointed out, this arrangement is biased against recognizing the cost of caring for patients with multiple conditions and diagnoses. The legislation would require the Department of Health and Human Services [DHHS] to work to refine the prospective payment system to better account for variations in the severity of illness and case mix complexity within each DRG. In addition to developing a legislative proposal on this kind of adjustment, DHHS would be required to consider possible changes in current outlier policy as an alternative method of accounting for differences in severity.

The Aging Committee's hearings highlighted circumstances of Medicare beneficiaries leaving hospitals still in need of serious medical care and attention. The Medicare Quality Protection Act would require DHHS to provide Medicare patients with more explicit notice of their rights to hospital care under DRG's including their right to appeal denials of continued hospitalization. It would also provide for expedited review of these appeals. This legislation would mandate a discharge planning service as a condition for participation for hospitals under Medicare. Finally, it would prohibit hospitals from offering "kickbacks" or other incentives to physicians for reducing hospital days of care for Medicare patients, and would provide for penalties for physicians who accepted such "kickbacks."

Our hearings underscored the fact that access to skilled nursing benefits and home health services is essential when Medicare patients are leaving hospitals quicker and sicker under DRG's. "Quicker and sicker" in and of itself is not a problem if acute hospital

care is no longer needed. However, alternative forms of appropriate posthospital care must be available to Medicare beneficiaries. The committee's hearings demonstrated that when quality postacute services are available, too often Medicare will not pay for them as a result of administration-initiated changes in skilled nursing and home health benefits and coverage criteria. Moreover, in some communities, suitable postacute care is in short supply and has long waiting lines.

The Medicare Quality Protection Act would help maintain beneficiary access to postacute nursing home and home health care by making the Medicare waiver of liability permanent and by broadening its applicability. Through regulation, the administration attempted to eliminate the waiver of liability, which provides limited financial protection to skilled nursing and home health providers who accept patients whom they have good reason to believe are eligible for Medicare coverage, but whose claims are subsequently denied. Fortunately, the recently enacted reconciliation bill blunted the administration's efforts by extending the waiver and today's legislation will make it permanent. The applicability of the waiver would be broadened to include denials related to the homebound and intermittency requirements, which have created major difficulties for beneficiaries and providers.

This legislation would require the Secretary of DHHS to develop a uniform needs assessment instrument to assist in evaluating the individual beneficiary's need for posthospital nursing home, home health, and other long-term care services. The instrument would be used by discharge planners, health care providers and the fiscal intermediaries to identify the appropriate services needed by individuals after their period of acute hospitalization.

The Medicare Quality Protection Act would expand the responsibilities of the peer review organizations [PRO's] to strengthen quality of care review within the hospital setting and then extend it, for the first time, beyond the hospital doors. Witness after witness testified before the committee that skilled nursing homes and home health agencies are seeing a significant increase in Medicare patients who require more intensive care, thus straining the ability of these facilities to provide adequate services. Under the bill, PRO's would begin evaluating care in selected home health, nursing, board and care homes, health maintenance organizations [HMO's], and other outpatient hospital settings where they have identified potential problems. They would also be required to investigate all written beneficiary complaints regarding substandard medical care, and to do sample quality of care assessments of Medicare hospital readmissions within 30 days of discharge.

When the Congress enacted the prospective payment system, it intended for the peer review organizations to be the quality of care "watch dogs" under DRG's. Clearly, however, as our hearings highlighted, the PRO's have not been given the budget or directives to do this job. We are saving billions of dollars annually with the new prospective payment system and if we want PPS to keep on working and saving us this money, we must commit some Federal dollars to quality assessment and assurances. The Congressional Budget Office estimates that this legislation will cost $200 million over the next 3 years. I believe that this is a modest cost to pay to make the system work better and more fairly than it has been working.

As my colleagues well know, ultimately, the Medicare program's success is only as good as the quality of care it delivers. I hope that others will join us in cosponsoring this measure.●

● Mr. BRADLEY. Mr. President, I rise to join my colleagues from Pennsylvania [Mr. HEINZ] and Ohio [Mr. GLENN] in introducing the Medicare Quality Protection Act. This bill is aimed at ensuring that the elderly receive the quality health services to which they are entitled.

Mr. President, in an attempt to control rapidly increasing hospital costs, in 1983 the Congress enacted a new prospective method for reimbursing hospitals for their Medicare patients utilizing diagnosis related groupings, or DRG's. The DRG system has helped to contain hospital costs, but with unintended consequences; there is growing evidence that, in some cases, Medicare patients are being turned away from hospitals, sent home too soon, or released needing home care that is often unavailable. This problem, which is national in scope, needs to be addressed.

The DRG system provides an incentive for hospitals to reduce the length of a hospital stay to only that period of time where acute care is absolutely required for a patient. This means that some people leave the hospital "sicker and quicker." And as Gramm-Rudman puts further limits on inhospital reimbursement rates, it is natural to assume that hospitals will be under increasing pressure to reduce hospital costs, thereby discharging patients earlier and earlier. If Medicare continues to be cut back, as projected under Gramm-Rudman, we must question whether traditional standards of quality care can be maintained.

Mr. President, when services in hospitals are cut back, there is an obvious need to increase the availability of home care services to fill the gap; and that is what we have seen over the past few years. But what we are witnessing in New Jersey is an actual reduction in the number of patients being admitted to home care and a significant increase in the number of patients being denied Medicare coverage for home care services. Why? This administration, through massive bureaucratic redtape and ambiguous rulings, is doing everything in its power to cut home care for people discharged from the hospital.

We need to act—today—before this problem worsens. This legislation is aimed at ensuring that the elderly receive quality health care services—both in the hospital and after they are discharged from the hospital. The three central provisions of the bill are as follows:

First, hospitals would be required to develop a "discharge plan" for each Medicare recipient prior to release from a hospital. The discharge plan allows for proper planning for the care of patients in their home following a hospital stay. I am pleased to report that New Jersey already requires its hospitals to establish discharge plans; I believe that this is one reason there is little evidence that New Jersey patients are being sent home too soon.

Second, the bill expands peer review. The primary role of peer review organizations currently is to police overutilizations of services. The bill requires that peer review organizations also sanction health care providers for a failure to provide medically necessary services. In addition, peer review organizations, which now review hospital admissions for their medical necessity, would also be required to review home care cases as well.

Third, the bill allows health care providers to appeal HCFA's decision to deny benefits to patients.

Mr. President, these are not the only steps that are needed to ensure that the elderly receive the services that they need. Indeed, I am working on legislation to establish standards to guide decisions about eligibility to home care services. But this legislation is a good step. I believe it will help to ensure that the elderly receive quality medical care—both in hospitals and, where required, in their homes after they are discharged.●

● Mr. CHILES. Mr. President, I am pleased to join the distinguished chairman of the Senate Aging Committee, and others in introducing the Medicare Quality Protection Act.

This is much needed legislation. Almost not a day goes by that my office doesn't receive a plea for help from one or more Floridians who have been affected by the impact of DRG's on the Medicare Program. Additionally, I was privileged to participate in a series of hearings over the last few months by the Aging Committee that documented clearly that while we

have been successful in lowering the rapidly escalating costs of Medicare, we may have done this at the expense of quality health care.

The issues addressed in this legislation, in some cases, are not new to Members. About 2 months ago, a number of us sent a letter to Secretary of Health and Human Services Bowen requesting that he move immediately to ensure that beneficiaries of Medicare were informed of their rights. He took action and has assured us that this information is not routinely being made available. But more needs to be done, and this bill would move toward further correction of these problems.

I am particularly incensed that certain providers are giving "kickbacks' and pressuring doctors to discharge patients early, many times against their better medical judgment. This legislation would provide civil penalties for such practices.

In many instances it may be permissible to discharge patients in order that they can recuperate at home, or in other more appropriate levels of care. But such discharges, however medically appropriate, should not be forced on individuals who have nowhere to turn, and no one at home to look after them. This legislation would make the provision of discharge planning a condition of participation for hospitals in the Medicare Program. Hopefully, this would assure that we would not hear more stories of tragedies caused by inappropriate discharges.

While I am in no way spelling out all the provisions in this legislation that are important, I do want to say one more thing to my colleagues. Over the years, I have been more and more concerned about the amount of money being spent by the Federal Government that we did not have. I have supported different measures to make our Government programs more cost efficient, but never did I do so with the intent of providing substandard care for those whom the programs were designed to serve. In this instance, the DRG system may have been a step in the right direction, and it has produced measurable results. But the time has come to make crucial improvements to the program, before the "solution" tears down the program it was supposed to rescue. We need to enact the Medicare Quality Protection Act and restore the confidence of the public in our Medicare Program. I hope that others will join us in this endeavor.●

● Mr. RIEGLE. Mr. President, I am pleased to join with Senator HEINZ, Senator GLENN and several other of my colleagues in being an original cosponsor of S. 2331, the Medicare Quality Protection Act of 1986. It is absolutely essential, during this transitional period in the health care field, that we work to maintain and improve the quality of health care for all Americans.

Over the past several years, we have instituted major changes in the Medicare Program. Most of those changes were motivated by our desire to control the rapidly spiraling cost of providing care for the 37 million Americans eligible to receive benefits under the Medicare Program. Medicare spending has been cut every year over the last 6, contributing more than $30 billion to deficit reduction. As part of those reductions and modifications in health care payments, reimbursement for inpatient hospital services is now made prospectively according to diagnoses; a system of payments known as DRG's. Hospitals and other health care providers have been forced to undertake cost containment measures, and a significant amount of waste has been trimmed from the health care system. Length of hospital stays have been reduced and admissions have not increased. In addition to the Federal Government saving billions of dollars, the forced increase in efficiency has resulted in record profits for a majority of hospitals across the country.

However, Mr. President, this is only part of the story. While the Federal Government and many hospitals might be benefiting under our new Medicare Program, it is unclear that the experience of our Nation's elderly and disabled persons has been as positive. The House Select Committee on Aging has recently completed an analysis of the dollars America's senior citizens pay for health care and concluded that they are significantly worse off in terms of health care costs than they were in the late seventies. During the earlier period, health care consumed about 12 percent of senior citizens' income. In 1986, this had jumped to just over 16 percent or an average of $1,850 per person. What's worse is that this figure is anticipated to climb to 18.5 percent of income by 1991, or $2,633 per person. This compares to only $712 in 1977, $966 in 1980, and $1,526 in 1984. In fact, it was recently announced that the Medicare hospital deductible will increase a whopping $80 in 1987, after jumping $92 this year—the biggest increase in the history of the program. What is ironic is that these recent increases in the hospital deductible are directly related to the reduction in the average Medicare length of stay and per admissions costs.

Unfortunately, the increase in costs for seniors and disabled beneficiaries has not resulted in an increase in quality of care. I am increasingly alarmed by suggestions that hospitals and physicians may be sacrificing patient care in an effort to contain costs under this new system. It is appalling that we are hearing reports of such unethical practices as prematurely discharging patients and reedmitting them later, and failing to hospitalize patients with complex medical problems. Actions like these, in an attempt to squeeze a few extra dollars out of the DRG system are disgraceful and must be stopped. I believe S. 2331 is an important step in our efforts to assure that our Nation's strong tradition of providing quality health services to our Medicare beneficiaries will not be jeopardized.

I hope all of my colleagues will join with us in supporting S. 2331 and in other efforts to guarantee that our Nation's Medicare beneficiaries receive the best possible care that is available.●

Mr. DURENBERGER. Mr. President, I am pleased to join my distinguished colleague, Senator HEINZ, and several other Members from both sides of the aisle in introducing the "Medicare Quality Protection Act of 1986." Just as prospective payment was a critical safeguard for the fiscal integrity of the Medicare Program, the bill we are introducing today will be an important step toward improving safeguards of the quality of care that is delivered under that program.

The aspect of the bill that I am most pleased with is that it mandates explicity that the Secretary of Health and Human Services thoroughly assess the effects of PPS on access and quality of care for Medicare beneficiaries.

It's time to stop talking about "anecdotal evidence" of problems under PPS and get the data. The General Accounting Office reported a lack of data on quality and access under PPS that cannot be ignored. This bill sets up the mechanisms we need to find out what is really happening.

Every new payment reform may have side effects. Retrospective cost-based reimbursement had inherent incentives to provide more and more services, perhaps even to the detriment of patients. Prospective payment has the opposite incentive—it may lead to underservice if not appropriately administered.

In order to set up quality safeguards which are tailored for a changing payment environment, I led a push to restructure the PSRO program to create Peer Review Organizations, or PRO's. This program has more flexibility to respond to the monitoring needs that arise under PPS.

PRO's are trying, but they're going to need help. We will have to go further than to call for expansions in their contractual responsibilities in S. 2331. We also must see that they get more timely cooperation from the Department of Health and Human Services in issuing regulations and sharing nationwide data essential to PRO operations. And we must see that they get sufficient funding to meet their scope of work. The PRO contract must be reasonable, not HCFA's wish list.

Those are concerns that I will be pursuing in the coming months.

What else can we do to assure that quality care is provided under PPS? Set appropriate payment rates. The bill we are introducing will require the HHS Secretary to report to Congress with a severity-of-illness adjustment. This will improve the accuracy and adequacy of DRG payments to hospitals, and this is essential.

But the most important piece of this bill is its plan for providing beneficiaries with better information about rights under PPS and easier access to PRO's when they feel those rights have been violated.

I am concerned with the reports we've received of hospital administrators telling beneficiaries that after so many days per DRG, their Medicare coverage is up. Hospitals have a responsibility to provide appropriate treatment whether that takes the average length of stay per DRG or 10 days longer. The best way to protect beneficiaries from this kind of abuse of the system is to arm them with the facts about their Medicare coverage. This bill will do that.

I am also concerned, however, with all the negative, dramatic press which characterizes PPS as a social experiment that is hurting the seniors. PPS has contributed to the solvency of the health insurance trust fund, it has encouraged better management, and that is no experiment. It is characterizations like that which do a real disservice to Medicare beneficiaries. The best protection a Medicare beneficiary—or any health care consumer—can have is full information about his health care program and his rights under that program.

The goal of the prospective payment system, and of the health care reform still to come, is to introduce competition and consumer choice into the health care market, to have providers compete for patients by offering economical, quality care.

This will require health care consumers to get involved, to become fully informed about their options for health care, and to take responsibility for demanding value at a fair price. This is the only way to make sure they get both economy and quality.

Medicare beneficiaries do not have to feel helpless and victimized. If they have the information, they can make decisions.

I believe this bill is a step toward halting that counterproductive hysteria. It is a step toward recognizing that well-informed health care consumers are the best police of the quality of care provided. For that reason, I have given it my support.

By Mr. BOSCHWITZ (for himself, Mr. BOREN, Mr. NICKLES, Mr. ABDNOR, and Mr. GRASSLEY):

S. 2332. A bill to provide credit assistance to borrowers of loans made by commercial lending institutions, and the Farmers Home Administration, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FARM CREDIT ASSISTANCE ACT

● Mr. BOREN. Mr. President, I am pleased to join the distinguished Senator from Minnesota [Mr. BOSCHWITZ], in introducing today the Farm Credit Assistance Act of 1986. This legislation is a revised version of a bill Senator BOSCHWITZ and I introduced last fall and attempted to include in the Farm Credit Act Amendments of 1985. Since December, we have been working on our bill in an attempt to make it more acceptable to all parties concerned.

In addition to making the interest rate buy-down provisions of the bill more palatable, we have also incorporated provisions of a bill introduced by Senator NICKLES which requires the Farm Credit System to restructure loans when it is cheaper to restructure than to foreclose.

There is no question that the farmers and ranchers of this country are facing difficult times. During 1985, farm income fell approximately 20 percent. After adjusting for inflation, net farm income in 1985 was $11 billion. Ten years ago, net farm income was over $20 billion. Net farm income is expected to decline again this year by about 8 percent in 1986, bringing the 1981-86 decline in inflation-adjusted net farm income to about 33 percent. On average, Oklahoma farmers did not generate enough income from the farm in the past 2 years to cover operating expenses.

Nominal land values fell an unprecedented 13 percent in 1984 and approximately 8 percent in 1985, the fourth consecutive year of declining land values. From 1981 to 1986, farm real estate values, in real terms, will have dropped by approximately 34 percent. In some counties, land values have fallen more than 50 percent in the past 3 or 4 years. By the end of 1986, it is estimated that cumulative farm sector equity losses since 1981 could exceed $250 billion—more than a fourth of peak values.

Low income combined with falling land values have placed many farmers in a difficult financial position; 20 percent of all farms are experiencing financial stress and an additional 10 percent are considered potentially at risk because of high debt loads; 123,000 farms are highly leveraged and technically insolvent and 51,000 operators had debt-to-asset ratios over 100 percent. Approximately 62 percent of all farm debt, amounting to $123 billion, is held by borrowers with debt-to-asset ratios over 40 percent.

The farm situation has deteriorated to the point that the survival of many banks in the Nation is being questioned. Agricultural banks accounted for more than one-half of the 118 commercial banks that failed in 1985. The percentage of bank failures that are agricultural increased dramatically from 15.9 percent in 1983 to 59.5 percent in the first 10 months of 1985. The number of potentially vulnerable commercial agricultural banks rose from 96 to 302 during the past 3 years. In June 1983, there were 106 problem agricultural banks; by October 1985, there were 413.

Mr. President, the condition of the agricultural economy does not merely affect farmers and their lenders. Agriculture is the largest sector of the American economy. Agriculture accounts for 20 percent of the Nation's gross national product, with $610 billion of business activity yearly. Each additional $1 billion of farm demand creates 35,000 jobs and adds a total of $2 billion to the Nation's gross national product.

In 1981, there were 1.1 million full-time jobs in the United States related to agricultural exports alone; 151,680 jobs in the printing and publishing industry is dependent upon agriculture; 543,480 jobs in the transportation and warehousing industry are dependent upon agriculture. The meat and poultry industry, alone, employs 347,000 people. Farmers annually spend $10 billion for tractors and other equipment; $7 billion for fuel and oil; and $9 billion for fertilizer and lime. In iron and steel manufacturing 93,176 jobs are dependent upon agriculture; 37 percent of all jobs in the glass and glass products industry are dependent upon agriculture; and 69 percent of all jobs the metal containers industry are dependent upon agriculture.

As should be obvious, everyone in this country has a stake in agriculture and retaining its viability. The legislation we are introducing today is not going to save every American farmer. It is not a complete solution by any means. Yet, it does take a step in the right direction.

Our legislation establishes an interest rate buy-down program that will help many American farmers by reducing their interest cost. Interest payments, alone, make up approximately 20 percent of farmers total production cost. The Agricultural Loan Interest Subsidy Program [AGLIS] will reduce the interest rate on agricultural loans by 3 to 5 percent; 2 percentage points will be paid by the Federal Government; an optional 1 to 2 percentage points may be paid by the States; and 1 percentage point by the lender. The lender can write off 15 percent of the principal of the loan in lieu of paying 1 percent of the interest.

In addition to establishing an interest rate buy-down program, the Farm Credit Assistance Act requires the

Farm Credit System and the Farmers Home Admninistration to restructure loans instead of foreclosing on them in instances where it is actually cheaper to restructure than to foreclose. I want to point out that this will not mean that everyone who has a Farm Credit System [FCS] or FmHA loan will be able to avoid foreclosure. Restructuring is required only when it is actually cheaper for the FCS or the FmHA. In this way, losses for the FCS and the FmHA will be minimized. For the FCS, this should result in lower interest cost for all borrowers of the system.

Our legislation also encourages the Farm Credit System to allow borrowers who will be foreclosed on to retain possession and occupancy of the principal residence of the borrower. Presently, the FCS has not been very willing at all to allow a borrower to continue to reside, even on a temporary basis, in the borrower's residence.

At the present time, there are no regulations for the disposition of property acquired by the Farm Credit System. The FCS, in essence, can do about anything with the land. In fact, a current policy of the Wichita Farm Credit district is to not allow a previous owner of the land to purchase his homestead. A couple of months ago, a farmer in Oklahoma was foreclosed on by the Farm Credit System. The Farm Credit System held an auction of the farmer's land. The farmer was able to raise enough money from his friends and neighbors to make a bid to purchase his homestead. While the bid was higher than the actual market value of the land and was the only bid, the Farm Credit System would not permit the farmer to pay cash for the land. I enquired of the officials of the Wichita Farm Credit banks about this matter. I was informed that the bank had a policy of not permitting a previous owner to purchase the land. I was shocked. The legislation we are introducing today will change this policy and will require the Farm Credit System to give special consideration to previous owners in the selling or leasing of land acquired by the System.

Another problem we have encountered in the past couple of years is the Farm Credit System's refusal to provide borrowers copies of the appraisals of the assets of the borrowers. In one case, a farmer was told that the System had cut the value of his assets in half but would not provide him with a copy of the appraisals. It is certainly hard to argue that the appraisals were too low or inaccurate if one does not have a copy of the appraisal. Our legislation requires the Farm Credit System to provide copies of the appraisals to the borrowers.

The Farm Credit Assistance Act also prevents the Farm Credit System from requiring additional collateral or foreclosing on a borrower for failure to provide additional collateral if the borrower is current in the payment of interest or principal. Right now, the Farm Credit System is foreclosing on borrowers who are completely current on their payments. Though it seems ridiculous, the FCS is doing this. A couple of months ago, the FCS called an Oklahoma farmer and told him he would have to provide additional collateral for his loan or else the system would initiate foreclosure proceedings. As with many farmers, this particular farmer did not have any additional collateral to give the FCS. Consequently, even though he was completely current on his payments. The FCS foreclosed on him a couple of weeks ago.

The legislation we are introducing today will also prohibit the Farm Credit System from increasing the interest rate on a loan that has been classified. An anomaly of current FCS policy is to increase the interest rate for a borrower the more he has difficulty meeting his payments. A couple of weeks ago, a farmer called my office to report what had happened to him in this regard. First, he was 10 days late in making his payment to the Federal Land Bank. He made his payment, in full, but because he was 10 days late the Federal Land Bank raised his interest rate by 2 percentage points. When the System raised his interest rate, it resulted in a substantial increase in his payment, to the point that the farmer would barely be able to make his next payment. Because he would now be using a larger percentage of his cashflow for his payment, the System classified his loan as a problem loan and raised his interest rate an additional 2 percent. With the additional 2 percent increase in interest costs, the borrower is completely unable to have full payment and is now being threatened with foreclosure by the System. It does seem illogical, Mr. President, but this is the way the FCS is operating.

Mr. President, we must change the current policies of the Farm Credit System. The current policies are driving down land values and jeopardizing the economic position of every farmer and rancher in this country. In turn, as more and more farmers are going out of business, more banks are going down. The entire economy is beginning to feel the effects of the problems confronting our Nation's farmers and ranchers.

As I have said, this legislation is not going to keep every farmer in business, but it is a beginning. I urge my colleagues to support the timely passage of this legislation.

I ask unanimous consent that an explanation and the text of the Farm Credit Assistance Act of 1986 be included in the RECORD at this point.

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

S. 2332

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Farm Credit Assistance Act of 1986".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Page

Sec. 1. Short title and table of contents.
Sec. 2. General definitions.

TITLE I—AGRICULTURAL LOAN INTEREST SUBSIDY PROGRAM

Sec. 101. Definitions.
Sec. 102. Establishment of program.
Sec. 103. Eligibility for assistance.
Sec. 104. Interest subsidies.
Sec. 105. Payments to states.
Sec. 106. State plans.
Sec. 107. Review by Secretary and State agencies.
Sec. 108. Notice and determinations of assistance.
Sec. 109. Assistance of Federal and State agencies.
Sec. 110. Program ineligibility for production on highly erodible land or converted wetland.

TITLE II—FARM CREDIT SYSTEM INSTITUTION BORROWERS

Subtitle A—Farm Credit System Loan Restructuring Program

Sec. 201. Definitions.
Sec. 202. Eligibility for assistance.
Sec. 203. Loan determinations.
Sec. 204. Loan foreclosure and restructuring.
Sec. 205. Additional collateral.
Sec. 206. Appeals.
Sec. 207. Reimbursement for principal reduction.
Sec. 208. Report.

Subtitle B—Farm Credit System Reform

Sec. 211. Access to appraisals.
Sec. 212. Homestead protection.
Sec. 213. Interest rates on classified loans.
Sec. 214. Certification of need for financial assistance.
Sec. 215. Operating expenses of institutions.
Sec. 216. Disposition and leasing of farmland.
Sec. 217. Stock purchase requirements.

TITLE III—FARMERS HOME ADMINISTRATION BORROWERS

Sec. 301. Definitions.
Sec. 302. Eligibility for assistance.
Sec. 303. Loan determinations.
Sec. 304. Loan foreclosure and restructuring.
Sec. 305. Additional collateral.
Sec. 306. Appeals.
Sec. 307. Report.
Sec. 308. Alternative crop loan program.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Inter-Agency Agricultural Task Force.
Sec. 402. Regulations.
Sec. 403. Authorization for appropriations.
Sec. 404. Termination date.

SEC. 2. GENERAL DEFINITIONS.

As used in this Act:

(1) INSTITUTION.—The term "institution" means an institution of the Farm Credit

System described in section 1.2 of the Farm Credit Act of 1971 (12 U.S.C. 2002).

(2) INTEREST SUBSIDY PROGRAM.—The term "interest subsidy program" means the Federal-State-Lender cooperative agricultural loan interest subsidy program established under title I.

(3) FCS LOAN RESTRUCTURING PROGRAM.—The term "FCS loan restructuring program" means the restructuring program established under subtitle A of title II for loans made by institutions of the Farm Credit System.

(4) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(5) STATE.—The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, or (to extent the Secretary determines it is feasible and appropriate) the Trust Territory of the Pacific Islands.

(6) STATE AGENCY.—The term "State agency" means the agency designated by a State under section 106(b)(1) to carry out the interest subsidy program in the State.

TITLE I—AGRICULTURAL LOAN INTEREST SUBSIDY PROGRAM

SEC. 101. DEFINITIONS.

As used in this title:

(1) BORROWER.—The term "borrower" means a person who meets the eligibility criteria prescribed in section 103.

(2) LENDER.—The term "lender" means a commercial bank, savings and loan association, credit union, insurance company, or institution, including a subsidiary or affiliate thereof, that—

(A) has agreed to participate in the interest subsidy program; and

(B) has been approved for participation in the interest subsidy program by the appropriate State agency.

SEC. 102. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Subject to subsection (b) and the availability of funds provided pursuant to section 403, the Secretary shall establish a Federal-State-Lender cooperative agricultural loan interest subsidy program under which, at the request of a State, borrowers and lenders within the State may participate in the interest subsidy program in accordance with this title.

(b) CONSULTATION.—The Secretary shall establish the interest subsidy program in consultation and cooperation with the Secretary of the Treasury, the Comptroller of the Currency, the Chairman of the Federal Reserve Board, the Chairman of the Farm Credit Administration, the Chairman of the Federal Deposit Insurance Corporation, and each State agency.

SEC. 103. ELIGIBILITY FOR ASSISTANCE.

To be eligible to receive assistance under this title, a person must—

(1) be an individual, family corporation, or family partnership;

(2) be a borrower of a loan made by a lender for agricultural purposes that is outstanding on April 1, 1986;

(3) during the period beginning on the date of the approval of a State plan under section 106 and ending September 30, 1987—

(A) be delinquent in the payment of principal or interest, or both, on the loan; or

(B) demonstrate to the lender that, due to circumstances beyond the control of the borrower (including depressed land values, high interest rates, and low prices for agricultural commodities), the borrower will be temporarily unable, without assistance provided under this Act, to continue making payments of the principal and interest when due without unduly impairing the standard of living of the borrower;

(4) have derived at least 50 percent of the gross annual income of the borrower from the production of raw agricultural products, including livestock, poultry, or the products of aquaculture, during at least 3 of the 5 preceding taxable years;

(5) have had gross annual sales of agricultural commodities of at least $30,000 during at least 3 of the 5 preceding taxable years;

(6) have a debt to asset ratio of at least 40 percent;

(7) have an ability to repay the loan, based on past performance as a capable producer and assistance to be provided under this Act; and

(8) not produce an agricultural commodity on highly erodible land or converted wetland in violation of section 1211 or 1221 of the Food Security Act of 1985 (16 U.S.C. 3811 or 3821).

SEC. 104. INTEREST SUBSIDIES.

(a) APPLICATIONS.—During the period beginning on the date of the approval of a State plan by the Secretary under section 106 and ending September 30, 1987, a borrower may apply to a lender for an interest subsidy for any agricultural loan made by the lender to the borrower that is outstanding on April 1, 1986.

(b) INTEREST SUBSIDIES.—If a borrower of a loan applies to a lender for an interest subsidy in accordance with subsection (a), the lender determines that the borrower meets the eligibility criteria prescribed in section 103, and the lender agrees to participate in the interest subsidy program, subject to this section, not later than 90 days after receipt of the application, the loan shall be restructured in such a manner that the interest rate payable by the borrower shall be fixed for a period of 3 years or the remaining term of the loan, whichever is less, at a rate equal to the interest rate of the loan on April 1, 1986, less up to 5 percentage points.

(c) PAYMENT OF SUBSIDIES.—If an interest subsidy is provided for a loan made by a lender to a borrower in a State—

(1) the Secretary shall pay 2 percentage points of the subsidy by making payments through the State agency to the lender;

(2) if the State elects to make such payments, the State may pay not less than 1 percentage point and not more than 2 percentage points of the subsidy by making payments to the lender; and

(3) the lender shall—

(A) pay 1 percentage point of the subsidy; or

(B) cancel at least 15 percent of the principal due on the loan.

(d) TERM OF LOAN.—The term of any loan for which an interest subsidy is provided under this section shall not be less than the term of the loan outstanding before the subsidy is provided.

(e) SCHEDULE OF PAYMENTS.—The schedule of payments on a restructured loan shall be established in accordance with the ability of the borrower to repay the loan.

(f) ACCRUED INTEREST.—Interest accrued on a restructured loan prior to restructuring shall not be capitalized but shall be paid by the borrower to the lender prior to any retirement of principal under the loan as restructured in accordance with this title.

(g) REPAYMENT.—Any balance of principal and interest outstanding on any restructured loan shall be repaid at a rate that is agreed on by the lender and borrower, except that the rate of interest on the loan may not exceed the standard rate charged by the lender on loans with comparable maturities for similar purposes at the time the loan is restructured.

(h) MAXIMUM AMOUNT OF ASSISTANCE.—The aggregate outstanding amount of loan principal for which an interest subsidy may be provided under this title may not exceed—

(1) in the case of a loan made to an individual, $400,000; and

(2) in the case of a loan made to a family corporation or family partnership, $600,000.

SEC. 105. PAYMENTS TO STATES.

(a) IN GENERAL.—From sums available pursuant to section 403 and subject to subsection (b) and section 106, the Secretary shall pay to each State for each of the fiscal years ending September 30, 1986, through September 30, 1989, an amount equal to the sum of—

(1) the amount necessary to finance the share of interest subsidies provided to borrowers residing in the State that is required to be paid by the Secretary under section 104(c)(1); and

(2) 100 percent of the administrative expenses that are incurred by the State agency in carrying out this title and are approved by the Secretary.

(b) MAXIMUM AMOUNT OF PAYMENTS.—The aggregate amount of payments paid by the Secretary to States under subsection (a) for a fiscal year may not exceed $600,000,000.

SEC. 106. STATE PLANS.

(a) IN GENERAL.—To be eligible to participate in the interest subsidy program during a fiscal year, a State must—

(1) submit a plan to the Secretary for the fiscal year; and

(2) receive the approval of the Secretary for the plan.

(b) PLAN REQUIREMENTS.—To receive the approval of the Secretary for a plan, a State must submit a plan that—

(1) designates a single agency that shall be responsible for the administration, or the supervision of the administration, of the interest subsidy program in the State;

(2) assesses the interest subsidy needs of borrowers residing in the State;

(3) describes the interest subsidy program established in the State (including any agencies designated to provide a subsidy under such program), which program must meet such requirements as the Secretary may prescribe;

(4) estimates the amount of funds necessary to provide interest subsidies under the program and related administrative expenses, except that such amount may not exceed the amount allocated by the Secretary for payment to the State out of the total amount available for payment under section 105;

(5) requires any lender participating in the interest subsidy program to provide to any borrower who is delinquent in the payment of principal or interest, or both, due on a loan during the period referred to in section 104(a) prompt written notice that describes the assistance available under this title and any deadlines for application for the assistance; and

(6) includes such other information as the Secretary may require.

(c) APPROVAL OF PLANS.—(1) The Secretary shall approve or disapprove a plan submitted by a State under subsection (b) not later than 45 days after the State submits the plan.

(2) The Secretary shall approve any plan that complies with subsection (b).

(d) AUDITS.—(1) Each State agency shall—

(A) provide for an annual audit of expenditures made by the State agency in carrying out the interest subsidy program, not later than 60 days after the end of each year in which the program is conducted; and

(B) promptly report to the Secretary the findings of such audit.

(2) Not later than 60 days after the end of each year in which a State agency participates in the interest subsidy program, a State agency shall provide the Secretary with a statement that provides—

(A) a description of whether (and, if so, by how much) the payments received under section 105 for such year exceeded the expenditures by the State agency during such year; and

(B) such other information as the Secretary may require.

(e) DENIAL OR WITHHOLDING OF PAYMENTS.—(1) If the Secretary finds that a State has failed to comply with subsection (b) or (d) during a fiscal year, except as provided in paragraph (2), the Secretary shall—

(A) notify the appropriate State agency that payments will not be made to the State agency under section 105 for the year until the Secretary is satisfied that the State is complying with such subsection; and

(B) make no payments under section 105 until the Secretary is satisfied that the State is complying with such subsection.

(2) If the Secretary finds that a State has failed to comply with subsection (b) or (d) during a fiscal year, the Secretary may—

(A) suspend the denial of payments under paragraph (1) for such period as the Secretary determines is appropriate; and

(B) withhold payments of approved State administrative expenses incurred in providing assistance under the plan, in whole or in part, for the year,

until the Secretary is satisfied that the State is complying with such subsection, at which time such withheld payments shall be paid.

(3) If the Secretary finds that a State has substantially failed to comply with subsection (b) or (d), the Secretary may, in addition to or in lieu of any action taken under paragraph (1) or (2), refer the matter to the Attorney General with a request that the Attorney General seek injunctive relief to require compliance by the State. If the Attorney General brings a suit in an appropriate district court of the United States and makes a showing of substantial noncompliance, appropriate injunctive relief shall issue.

SEC. 107. REVIEW BY SECRETARY AND STATE AGENCIES.

(a) REVIEW AND TECHNICAL ASSISTANCE BY SECRETARY.—The Secretary—

(1) shall provide for review, and may provide for an audit, of the manner in which the interest subsidy program is carried out in a State; and

(2) may provide to States technical assistance in carrying out the program.

(b) REVIEW BY STATE AGENCIES.—A State agency may monitor the compliance of a lender with this title. Any lender that violates this title shall be ineligible to receive further payments under this title.

SEC. 108. NOTICE AND DETERMINATIONS OF ASSISTANCE.

A lender in a State participating in the interest subsidy program may not take any action as the result of a borrower defaulting on an outstanding loan made by such lender to a borrower unless the lender has—

(1) provided the borrower with the notice required under section 106(b)(5); and

(2) in the case of a borrower who has applied for assistance under this title, determined that the borrower does not meet the eligibility criteria prescribed in section 103.

SEC. 109. ASSISTANCE OF FEDERAL AND STATE AGENCIES.

(a) IN GENERAL.—To make assistance under this title available expeditiously and in a consistent and uninterrupted manner, the Secretary shall—

(1) use such funds, personnel, and facilities of the Department of Agriculture (including the Commodity Credit Corporation) as the Secretary considers necessary to carry out this title; and

(2) request other Federal or State agency to provide such funds, personnel, and facilities as the Secretary considers necessary to carry out this title.

(b) REIMBURSEMENT.—Any agency that provides advanced funds, personnel, or facilities under subsection (a) shall be fully reimbursed for such assistance as soon as is practicable from subsequent appropriations.

SEC. 110. PROGRAM INELIGIBILITY FOR PRODUCTION ON HIGHLY ERODIBLE LAND OR CONVERTED WETLAND.

(a) HIGHLY ERODIBLE LAND CONSERVATION.—Section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811) is amended—

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

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

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

"(3) an interest subsidy during such crop year under the interest subsidy program established under title I of the Farm Credit Assistance Act of 1986.".

(b) WETLAND CONSERVATION.—Section 1221 of the Food Security Act of 1985 (16 U.S.C. 3821) is amended—

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

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

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

"(3) an interest subsidy during such crop year under the interest subsidy program established under title I of the Farm Credit Assistance Act of 1986.".

TITLE II—FARM CREDIT SYSTEM INSTITUTION BORROWERS

Subtitle A—Farm Credit System Loan Restructuring Program

SEC. 201. DEFINITIONS.

As used in this subtitle:

(1) BORROWER.—The term "borrower" means a borrower of a loan made by an institution.

(2) CAPITAL CORPORATION.—The term "Capital Corporation" means the Farm Credit System Capital Corporation established under section 4.28A of the Farm Credit Act of 1971 (12 U.S.C. 2216).

(3) CHAIRMAN.—The term "Chairman" means the Chairman of the Farm Credit Administration Board designated under section 5.8(a) of the Farm Credit Act of 1971 (12 U.S.C. 2242(a)).

(4) COMMITTEE.—The term "committee" means a credit review committee selected from and by—

(A) the local board of directors of the institution from which a loan originated; or

(B) in the case of consolidated or merged institutions, members of a local advisory board elected by the stockholders served by the merged or consolidated institutions from which a loan originated.

(5) COST OF FORECLOSURE.—The term "cost of foreclosure" includes—

(A) the difference between the outstanding amount of principal due on a loan made by an institution and the value of collateral used to secure the loan, taking into consideration the lien position of the institution;

(B) the estimated cost of maintaining a loan as a nonperforming asset;

(C) the estimated cost of administrative and legal actions necessary to foreclose a loan and dispose of property acquired as the result of the foreclosure;

(D) the estimated, adverse impact of the sale of property acquired as the result of a loan foreclosure on the value of property held by other borrowers of institutions;

(E) the estimated cost of changes in the value of collateral used to secure a loan during the period beginning on the date of the initiation of action to foreclose or liquidate the loan and ending on the date of the disposition of the collateral; and

(F) all other costs incurred as the result of the foreclosure or liquidation of a loan.

(6) LOAN.—The term "loan" means a loan made by an institution under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

SEC. 202. ELIGIBILITY FOR ASSISTANCE.

To be eligible to receive assistance under this subtitle, a person must—

(1) be an individual, family corporation, or family partnership;

(2) be a borrower of a loan made by, and a stockholder of, an institution who is delinquent in the payment of principal or interest, or both, on the loan on the date of enactment of this Act or during the 3-year period beginning on such date;

(3) demonstrate to the institution that, due to circumstances beyond the control of the borrower (including depressed land values, high interest rates, and low prices for agricultural commodities), the borrower is temporarily unable to continue making payments of the principal and interest when due without unduly impairing the standard of living of the borrower;

(4) have derived at least 50 percent of the gross annual income of the borrower from the production of raw agricultural products, including livestock, poultry, or the products of aquaculture, during at least 3 of the 5 preceding taxable years;

(5) have had gross annual sales of agricultural commodities of at least $30,000 during at least 3 of the 5 preceding taxable years; and

(6) have an ability to repay the loan, based on past performance as a capable producer and assistance provided under this Act.

SEC. 203. LOAN DETERMINATIONS.

Before instituting a proceeding to foreclose a loan made to a borrower, an institution must determine—

(1) the cost of foreclosure; and

(2) the cost of restructuring the loan in accordance with this subtitle.

SEC. 204. LOAN FORECLOSURE AND RESTRUCTURING.

If an institution determines that the cost of foreclosure of a loan made to a borrower is equal to or exceeds the cost of restructuring the loan in accordance with this subtitle, in lieu of foreclosure, the institution shall reduce the principal or interest, or both, due on the loan, or otherwise restructure the loan, in a manner that would enable the borrower to make payments of principal and interest due on the loan without unduly impairing the standard of living of the borrower.

SEC. 205. ADDITIONAL COLLATERAL.

An institution may not—

(1) require any borrower to provide additional collateral to secure a loan if the borrower is current in the payment of principal or interest on the loan; or

(2) bring any action to foreclose on, or otherwise liquidate, any loan as the result of the failure of a borrower to provide additional collateral to secure a loan if the borrower was current in the payment of principal or interest on the loan at the time the additional collateral was required.

SEC. 206. APPEALS.

(a) DETERMINATION OF INELIGIBILITY.—(1) If an institution determines that a person does not meet the eligibility criteria prescribed in section 202, not later than 15 days after such determination, the institution shall provide the person with a written notice of—

(A) the determination and the reasons for the determination; and

(B) the right of the person to appeal the determination before a committee.

(2) If a person makes a written request to a committee not later than 30 days after receipt of a notice to contest a determination referred to in paragraph (1), the person shall have the right to appear before the committee to contest the determination.

(b) DETERMINATION TO NOT RESTRUCTURE.—(1) If an institution determines that the cost of restructuring a loan in accordance with this subtitle exceeds the cost of foreclosure of the loan, not later than 15 days after such determination, the institution shall provide the borrower of the loan with a written notice of—

(A) the determination and the reasons for the determination;

(B) the computations used by the institution to make the determination, including the estimate of the collateral value of the land used to secure the loan; and

(C) the right of the borrower to appeal the determination before a committee.

(2) If a borrower of a loan made by an institution makes a written request to a committee not later than 30 days after receipt of a notice to contest a determination referred to in paragraph (1), the borrower shall have the right to—

(A) request the committee to arrange an independent appraisal of the cost of foreclosure of the loan and the cost of restructuring the loan in accordance with this subtitle; and

(B) appear before the committee to contest the determination.

(3) If a borrower requests a committee to arrange an independent appraisal made under paragraph (2)(A), the committee shall—

(A) arrange the independent appraisal, in accordance with regulations issued by the Farm Credit Administration; and

(B) consider such appraisal when reviewing the determination of the committee.

(4) If an independent appraisal is conducted under this subsection of the cost of foreclosure of a loan made by an institution to a borrower and the cost of restructuring the loan in accordance with this subtitle, the cost of the appraisal shall be borne by—

(A) the institution if the appraised cost of restructuring the loan in accordance with this subtitle is equal to or less than the appraised cost of the foreclosure of the loan; or

(B) the borrower if the appraised cost of restructuring the loan in accordance with this subtitle is greater than the appraised cost of the foreclosure of the loan.

(c) DETERMINATION TO RESTRUCTURE.—(1) If an institution determines that a borrower of a loan meets the eligibility criteria prescribed in section 202 and that the cost of restructuring the loan in accordance with this subtitle is less than or equal to the cost of foreclosure of the loan, not later than 15 days after such determination, the institution shall provide the borrower with a written notice of—

(A) the determination and the reasons for the determination;

(B) the amount of the reduction in principal or interest, or both, or method of restructuring, the institution determines is adequate to enable the borrower to make payments in accordance with section 204; and

(C) the right of the borrower to contest the amount of the reduction, or method of restructuring, before a committee.

(2) If a borrower makes a written request to a committee not later than 30 days after receipt of a notice to contest the amount of the reduction, or method of restructuring, referred to in paragraph (1), the borrower shall have the right to appear before the committee to contest the amount of the reduction or method of restructuring.

(d) VOLUNTARY AGREEMENTS.—A borrower of a loan made by an institution shall have the right to appear before a committee to contest a determination, amount, or action under this subtitle if—

(1) the institution and the borrower enter into an agreement under which the institution agrees to restructure the loan in accordance with this subtitle and the borrower agrees not to contest the determination, amount, or action, as the case may be;

(2) the institution does not restructure the loan in accordance with this subtitle; and

(3) the borrower makes a written request to the committee to contest the determination, amount, or action, as the case may be, not later than 30 days after the date by which the institution agreed to restructure the loan in accordance with this subtitle.

(e) NOTICE OF DECISIONS.—Not later than 15 days after any review conducted by a committee, the committee shall provide the aggrieved person or borrower with written notice of the decision of the committee and the reasons for the decision.

SEC. 207. REIMBURSEMENT FOR PRINCIPAL REDUCTION.

The Capital Corporation shall reimburse an institution for the amount of principal due on loans that is reduced by the institution under section 204 if the Chairman determines that such action is necessary to avoid the liquidation or insolvency of the institution.

SEC. 208. REPORT.

Not later than 270 days after the date of enactment of this Act, the Chairman shall submit a report to Congress on the operation of this subtitle, including—

(1) an analysis of the impact of actions taken under this subtitle on losses suffered by institutions;

(2) an analysis of the impact of the actions on property values;

(3) an analysis of the accuracy of the cost of foreclosure determined by institutions under this subtitle;

(4) the number and amount of loans restructured in accordance with this subtitle;

(5) the number of current and estimated future delinquencies before and after the expiration of this subtitle on loans made to borrowers; and

(6) the recommendations of the Chairman concerning reauthorization of this subtitle.

Subtitle B—Farm Credit System Reform

SEC. 211. ACCESS TO APPRAISALS.

Section 4.13A of the Farm Credit Act of 1971 (12 U.S.C. 2200) is amended to read as follows:

"SEC. 4.13A. ACCESS TO DOCUMENTS AND INFORMATION.—In accordance with regulations of the Farm Credit Administration, a System institution shall provide to each borrower of such institution—

"(1) at the time of execution of a loan, a copy of each document signed by the borrower;

"(2) at any time thereafter, on request, a copy of each document signed or delivered by the borrower;

"(3) at any time, on request, a copy of the articles of incorporation or charter and bylaws of the institution; and

"(4) at the time of execution of a loan and at any time thereafter, on request, a copy of each appraisal of the assets of the borrower.".

SEC. 212. HOMESTEAD PROTECTION.

Part C of title IV of the Farm Credit Act of 1971 is amended by adding after section 4.20 (12 U.S.C. 2208) the following new section:

"SEC. 4.21. HOMESTEAD PROTECTION.—If an institution forecloses a loan made by the institution or a borrower of a loan made by the institution declares bankruptcy or goes into voluntary liquidation to avoid foreclosure or bankruptcy, the institution is encouraged to permit the borrower to retain possession and occupancy of the principal residence of the borrower, and a reasonable amount of adjoining land, to maintain the family of the borrower.".

SEC. 213. INTEREST RATES ON CLASSIFIED LOANS.

Part C of title IV of the Farm Credit Act of 1971 is amended by adding after section 4.22 (as added by section 212) the following new section:

"SEC. 4.22. An institution of the Farm Credit System may not increase the interest rate on a loan made to a borrower that is outstanding on the date of enactment of the Farm Credit Assistance Act of 1986 as the result of the loan been classified as a risk or problem loan.".

SEC. 214. CERTIFICATION OF NEED FOR FINANCIAL ASSISTANCE.

Section 4.28J of the Farm Credit Act of 1971 (12 U.S.C. 2216i) is amended by inserting after "TREASURY.—" the following new sentence: "Not later than 60 days after the date of enactment of the Farm Credit Assistance Act of 1986, and each 90 days thereafter, the Farm Credit Administration shall determine whether the Farm Credit System is in need of financial assistance to address financial stress of System institutions.".

SEC. 215. OPERATING EXPENSES OF INSTITUTIONS.

Part D1 of title IV of the Farm Credit Act of 1971 is amended by adding after section 4.28L (12 U.S.C. 2216k) the following new section:

"SEC. 4.28M. OPERATING EXPENSES OF INSTITUTIONS.—During the period beginning on date of enactment of the the Farm Credit Assistance Act of 1986 and ending the later of September 30, 1990, or such time as the Secretary of the Treasury no longer holds any obligations issued by the Capital Corporation, the operating expenses of an institution of the Farm Credit System may not exceed the average cost of bonds issued by the System, plus 1 percent.".

SEC. 216. DISPOSITION AND LEASING OF FARMLAND.

Part F of title IV of the Farm Credit Act of 1971 is amended by adding after section 4.36 (12 U.S.C. 2219a) the following new section:

"SEC. 4.37. DISPOSITION AND LEASING OF FARMLAND.—(a) The Farm Credit Administration shall issue regulations for the disposition and leasing of farmland acquired by any institution of the Farm Credit System, including the Capital Corporation, (hereafter in this section referred to as an 'institution') in accordance with this section.

"(b) An institution shall to the extent practicable sell or lease farmland acquired under this Act in the following order of priority:

"(1) Sale of such farmland to operators (as of the time immediately before such sale) of not larger than family-size farms.

"(2) Lease of such farmland to operators (as of the time immediately before such lease is entered into) of not larger than family-size farms.

"(c)(1) An institution shall not offer for sale or sell any such farmland if the placing of such farmland on the market will have a detrimental effect on the value of farmland in the area.

"(2) In selling such land, the institution shall give special consideration to a previous owner or operator of such land.

"(d)(1) An institution shall consider granting, and may grant, to an operator of not larger than a family-size farm, in conjunction with subsection (e), a lease with an option to purchase farmland acquired under this Act.

"(2) The Farm Credit Administration shall issue regulations providing for leasing such land, or leasing such land with an option to purchase, on a fair and equitable basis.

"(3) In leasing such land, the institution shall give special consideration to a previous owner or operator of such land if such owner or operator has financial resources, and farm management skills and experience, that the institution determines are sufficient to assure a reasonable prospect of success in the proposed farming operation.

"(4) To the extent an institution may lease or operate real property under this section, the institution shall, if the institution determines to administer such property through management contracts, offer the contracts on a competitive bid basis, giving preference to persons who will live in, and own and operate qualified small businesses in, the area where the property is located.

"(e)(1) An institution shall offer such land for sale to operators of not larger than family-size farms at a price that reflects the average annual income that may be reasonably anticipated to be generated from farming such land.

"(2) If two or more qualified operators of not larger than family-size farms desire to purchase, or lease with an option to purchase, such land, the local board of the institution shall, by majority vote, select the operator who may purchase such land.

"(f) If farmland is available for disposition under this section, the institution shall—

"(1) publish an announcement of the availability of such farmland in at least one newspaper that is widely circulated in the county in which the farmland is located; and

"(2) post an announcement of the availability of such farmland in a prominent place in the local office of the institution that serves the county in which the farmland is located.".

SEC. 217. STOCK PURCHASE REQUIREMENT.

Part F of title IV of the Farm Credit Act of 1971 is amended by adding after section 4.37 (as added by section 216) the following new section:

"SEC. 4.38. STOCK PURCHASE REQUIREMENT.—A borrower must purchase stock in the Farm Credit System, in accordance with regulations issued by the Farm Credit Administration, to be eligible—

"(1) to obtain a loan from an institution of the Farm Credit System; or

"(2) to enter into an installment contract for the purchase of farmland acquired by the Farm Credit System.".

TITLE III—FARMERS HOME ADMINISTRATION BORROWERS

SEC. 301. DEFINITIONS.

As used in this title

(1) BORROWER.—The term "borrower" means a borrower of a loan who meets the eligibility criteria prescribed in section 302.

(2) COMMITTEE.—The term "committee" means the appropriate county committee established under section 332 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1982).

(3) COST OF FORECLOSURE.—The term "cost of foreclosure" includes—

(A) the difference between the outstanding amount of principal due on a loan and the value of collateral used to secure the loan, taking into consideration the lien position of the Secretary;

(B) the estimated cost of maintaining a loan as a nonperforming asset;

(C) the estimated cost of administrative and legal actions necessary to foreclose a loan and dispose of property acquired as the result of the foreclosure;

(D) the estimated, adverse impact of the sale of property acquired as the result of a loan foreclosure on the value of property held by other borrowers of the Secretary;

(E) the estimated cost of changes in the value of collateral used to secure a loan during the period beginning on the date of the initiation of action to foreclose or liquidate the loan and the ending on the date of the disposition of the collateral; and

(F) all other costs incurred as the result of the foreclosure or liquidation of a loan.

(4) LOAN.—The term "loan" means a loan made by the Secretary under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

SEC. 302. ELIGIBILITY FOR ASSISTANCE.

To be eligible to receive assistance under this title, a person must—

(1) be an individual, family corporation, or family partnership;

(2) be a borrower of a loan who is delinquent in the payment of principal or interest, or both, on the loan on the date of enactment of this Act or during the 3-year period beginning on such date;

(3) demonstrate to the Secretary that, due to circumstances beyond the control of the borrower (including depressed land values, high interest rates, and low prices for agricultural commodities), the borrower is temporarily unable to continue making payments of the principal and interest when due without unduly impairing the standard of living of the borrower;

(4) have derived at least 50 percent of the gross annual income of the borrower from the production of raw agricultural products, including livestock, poultry, or the products of aquaculture, during at least 3 of the 5 preceding taxable years;

(5) have had gross annual sales of agricultural commodities of at least $30,000 during at least 3 of the 5 preceding taxable years; and

(6) have an ability to repay the loan, based on past performance as a capable producer and assistance provided under this Act.

SEC. 303. LOAN DETERMINATIONS.

Before instituting a proceeding to foreclose a loan made to a borrower, the Secretary must determine—

(1) the cost of foreclosure; and

(2) the cost of restructuring the loan in accordance with this title.

SEC. 304. LOAN FORECLOSURE AND RESTRUCTURING.

If the Secretary determines that the cost of foreclosure of a loan made to a borrower is equal to or exceeds the cost of restructuring the loan in accordance with this title, in lieu of foreclosure, the Secretary shall reduce the principal or interest, or both, due on the loan, or otherwise restructure the loan, in a manner that would enable the borrower to make payments of principal and interest due on the loan without unduly impairing the standard of living of the borrower.

SEC. 305. ADDITIONAL COLLATERAL.

The Secretary may not—

(1) require any borrower to provide additional collateral to secure a loan if the borrower is current in the payment of interest on the loan; or

(2) bring any action to foreclose on, or otherwise liquidate, any loan as the result of the failure of a borrower to provide additional collateral to secure a loan if the borrower was current in the payment of interest on the loan at the time the additional collateral was required.

SEC. 306. APPEALS.

(a) DETERMINATION OF INELIGIBILITY.—(1) If the Secretary determines that a person does not meet the eligibility criteria prescribed in section 302, not later than 15 days after such determination, the Secretary shall provide the person with a written notice of—

(A) the determination and the reasons for the determination; and

(B) the right of the person to appeal the determination before a committee.

(2) If a person makes a written request to a committee not later than 30 days after receipt of a notice to contest a determination referred to in paragraph (1), the person shall have the right to appear before the committee to contest the determination.

(b) DETERMINATION TO NOT RESTRUCTURE.—(1) If the Secretary determines that the cost of restructuring a loan in accordance with this title exceeds the cost of foreclosure of the loan, not later than 15 days after such determination, the Secretary shall provide the borrower of the loan with a written notice of—

(A) the determination and the reasons for the determination;

(B) the computations used by the Secretary to make the determination, including the estimate of the collateral value of the land used to secure the loan; and

(C) the right of the borrower to appeal the determination before a committee.

(2) If a borrower of a loan made by the Secretary makes a written request to a committee not later than 30 days after receipt of a notice to contest a determination referred to in paragraph (1), the borrower shall have the right to—

(A) request the committee to arrange an independent appraisal of the cost of foreclosure of the loan and the cost of restructur-

ing the loan in accordance with this title; and

(B) appear before the committee to contest the determination.

(3) If a borrower requests a committee to arrange an independent appraisal made under paragraph (2)(A), the committee shall—

(A) arrange the independent appraisal, in accordance with regulations issued by the Farm Credit Administration; and

(B) consider such appraisal when reviewing the determination of the committee.

(4) If an independent appraisal is conducted under this subsection of the cost of foreclosure of a loan made by the Secretary to a borrower and the cost of restructuring the loan in accordance with this title, the cost of the appraisal shall be borne by—

(A) the Secretary if the appraised cost of restructuring the loan in accordance with this title is equal to or less than the appraised cost of the foreclosure of the loan; or

(B) the borrower if the appraised cost of restructuring the loan in accordance with this title is greater than the appraised cost of the foreclosure of the loan.

(c) DETERMINATION TO RESTRUCTURE.—(1) If the Secretary determines that a borrower of a loan meets the eligibility criteria prescribed in section 302 and that the cost of restructuring the loan in accordance with this title is less than or equal to the cost of foreclosure of the loan, not later than 15 days after such determination, the Secretary shall provide the borrower with a written notice of—

(A) the determination and the reasons for the determination;

(B) the amount of the reduction in principal or interest, or both, or method of restructuring, the Secretary determines is adequate to enable the borrower to make payments in accordance with section 304; and

(C) the right of the borrower to contest the amount of the reduction, or method of restructuring, before a committee.

(2) If a borrower makes a written request to a committee not later than 30 days after receipt of a notice to contest the amount of the reduction, or the method of restructuring, referred to in paragraph (1), the borrower shall have the right to appear before the committee to contest the amount of the reduction or method of restructuring.

(d) VOLUNTARY AGREEMENTS.—A borrower of a loan made by the Secretary shall have the right to appear before a committee to contest a determination, amount, or action under this title if—

(1) the Secretary and the borrower enter into an agreement under which the Secretary agrees to restructure the loan in accordance with this title and the borrower agrees not to contest the determination, amount, or action, as the case may be;

(2) the Secretary does not restructure the loan in accordance with this title; and

(3) the borrower makes a written request to the committee to contest the determination, amount, or action, as the case may be, not later than 30 days after the date by which the Secretary agreed to restructure the loan in accordance with this title.

(e) NOTICE OF DECISIONS.—Not later than 15 days after any review conducted by a committee, the committee shall provide the aggrieved person or borrower with written notice of the decision of the committee and the reasons for the decision.

SEC. 307. REPORT.

Not later than 270 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the operation of this title, including—

(1) an analysis of the impact of actions taken under this title on losses suffered by the Secretary;

(2) an analysis of the impact of the actions on property values;

(3) an analysis of the accuracy of the cost of foreclosure determined by the Secretary under this title;

(4) the number and amount of loans restructured in accordance with this title;

(5) the number of current and estimated future delinquencies before and after the expiration of this title on loans made to borrowers; and

(6) the recommendations of the Secretary concerning reauthorization of this title.

SEC. 308. ALTERNATIVE CROP LOAN PROGRAM.

The Consolidated Farm and Rural Development Act is amended by inserting after section 352 (7 U.S.C. 2000) the following new section:

"SEC. 353. (a) For purposes of this section, the term 'alternative crop' means any agricultural operation (including acquaculture and livestock production) conducted by an applicant if—

"(1) there is no substantial history of such operation in the area in which the applicant resides; and

"(2) the applicant has derived from such operation not more than 20 percent of the gross annual income of the applicant during any of the 5 preceding taxable years.

"(b) In addition to the purposes prescribed in sections 303 and 312, the Secretary may make and insure, or guarantee, real estate and operating loans under subtitles A and B, respectively, to farmers and ranchers in the United States for the production of alternative crops.

"(c)(1) Subject to paragraph (2), to be eligible to obtain a loan or loan guarantee for a real estate or operating loan for the production of an alternative crop, a person must—

"(A) meet the eligibility requirements prescribed for a real estate loan under section 302 or an operating loan under section 311, respectively; and

"(B) submit to, and receive the approval of, the Secretary for a 5-year plan of projected production and income from the proposed alternative crop.

"(2) In determining eligibility for a loan or loan guarantee under this section, the Secretary shall consider training or farming experience that the Secretary determines is sufficient to assure reasonable prospects of success in the proposed farming operation, whether or not such training or experience is in the production of an alternative crop.

"(d) The Secretary may enter into a multiyear commitment to provide a loan or loan guarantee under this section for a term, of not to exceed 3 years, that is consistent with the nature of the alternative crop operation.".

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. INTER-AGENCY AGRICULTURAL TASK FORCE.

(a) ESTABLISHMENT.—In light of the severe economic problems confronted by many agricultural banks and the regulatory responsibilities of bank regulatory agencies, not later than 30 days after the date of enactment of this Act, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Federal Reserve System shall develop an Inter-Agency Agricultural Task Force to assist commercial agricultural banks and the borrowers of the banks to resolve present economic problems and to facilitate commercial bank lending to agriculture in the future.

(b) DUTIES.—The Inter-Agency Task Force shall—

(1) review existing regulations and policies to facilitate agricultural lending;

(2) cooperate with field office personnel to avoid conflicts and inconsistencies between the agencies; and

(3) consider meaningful alternatives to assist commercial banks in providing agricultural financing through regulatory or statutory changes, including accounting changes, interest rate buy-downs, or other similar methods for assisting banks.

(c) REPORTS.—Not later than 6 months after the date of enactment of this Act, and semiannually thereafter, the Inter-Agency Task Force shall report its findings and recommendations in carrying out this section to—

(1) the Committee on Agriculture of the House of Representatives;

(2) the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(3) the Committee on Banking, Finance and Urban Affairs of the House of Representatives; and

(4) the Committee on Banking, Housing, and Urban Affairs of the Senate.

SEC. 402. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Secretary and the Farm Credit Administration shall issue such regulations as are necessary to carry out provisions of this Act under their jurisdiction.

SEC. 403. AUTHORIZATION FOR APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) USE OF INTEREST RATE REDUCTION PROGRAM FUNDS.—Notwithstanding the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), of the amount of funds used by the Secretary to carry out the interest rate reduction program under section 351(e) of such Act (7 U.S.C. 1999(e)) during the fiscal year ending September 30, 1986, the Secretary shall use not less than $30,000,000, and not more than $35,000,000, to carry out the interest subsidy program established under title I during such fiscal year.

SEC. 404. TERMINATION DATE.

Except as otherwise provided in this Act, the authority granted by this Act shall terminate 3 years after the date of enactment of this Act.

FARM CREDIT ASSISTANCE ACT OF 1986
EXPLANATION

TITLE I. INTEREST RATE BUY-DOWN PROGRAM.

1. Each state would have the option of participating in the program. If a State opted into the program, the state would designate an agency to operate the program. 100 percent of the administrative costs would be reimbursed to the states by U.S.D.A. Each state would be required to develop a plan whereby eligible borrowers and lenders would be determined. The plan must be approved by U.S.D.A.

2. Eligible borrowers are those who:

(a) have an outstanding loan on April 1, 1986;

(b)(1) be delinquent in the payment of principal or interest, or both, or (2) demon-

strate that the borrower will be unable to make payments of principal or interest;

(c) had gross agricultural sales in excess of $30,000 for three of the past five years;

(d) have derived at least 50 percent of their gross annual income from agriculture in at least 3 of the past 5 taxable years;

(e) have a debt-to-asset ratio in excess of 40 percent;

(f) have repayment ability; and

(g) do not produce an agricultural commodity on highly erodible land or converted wetlands in violation of the sodbuster and swampbuster provisions of the Food Security Act of 1985.

3. Assistance under this program shall be limited to an aggregate amount of principal of not more than $400,000 in the case of an individual, and $600,000 in the case of a family corporation or family partnership.

4. Under the program, for eligible borrowers, the interest rate (or principal as the case may be) will be written down for 3 years as follows:

(a) 2 percentage points will be paid by the federal government;

(b) 1-2 percentage points may be paid by the state; and

(c) 1 percentage point of interest or at least 15 percent of principal by the lender.

5. Eligible lenders under this title are defined as commercial banks and institutions of the farm credit system that have been designated as eligible by the state agency operating the program.

6. Appropriations to carry out the act are authorized as necessary. The CCC can be utilized for carrying out the program.

7. Applications for the interest rate buy-down program will be accepted beginning on the date the U.S.D.A. approves the state plan and ending September 30, 1987.

8. Borrowers who produce on highly erodible land or converted wetlands would be ineligible for benefits under this program.

TITLE II: FARM CREDIT SYSTEM

1. For the period beginning on the date the U.S.D.A. approves a state plan for the interest rate buy-down program and ending September 30, 1987, the Farm Credit System cannot foreclose on a borrower unless the borrower has been determined to be ineligible for the interest rate buy-down program, if one is operational in the state in which the institution or association is located.

2. For the period beginning on the date of enactment of this title and ending three years from the date of enactment, the Farm Credit System cannot foreclose on a borrower—

(a) unless the borrower has been determined to be ineligible for the interest rate buy-down program during the year in which the program is operational in the state; and

(b) unless the borrower has been determined to be ineligible for the principal/interest restructuring program described below.

3. Principal/Interest Restructuring Program:

(a) If the costs associated with foreclosure equal or exceed the cost of restructuring a loan in an amount which will enable the borrower to make payments, the Farm Credit System will be required to restructure the loan in lieu of foreclosing.

(b) Eligible borrowers are those who:

(1) are delinquent in payments of principal or interest during the period beginning on the date of enactment and ending 3 years after such date;

(2) demonstrate that the delinquency is beyond the control of the borrower;

(3) derived not less than 50 percent of their gross annual income for three of the past five years from agriculture; and

(4) had gross agricultural sales in excess of $30,000 for 3 of the past 5 years.

(c) Requires the Capital Corporation to reimburse an institution for the amount of principal due on loans that is reduced by the institution if the chairman determines that such action is necessary to avoid the liquidation or insolvency of the institution.

4. Encourages the Farm Credit System to allow borrowers who will be foreclosed on to retain possession and occupancy of any principal residence of the borrower and a reasonable amount of adjoining land.

5. Disposition of Acquired Property:

(a) Requires the F.C.A. to issue regulations identifying the proper handling of acquired farmland.

(b) Requires the F.C.S. to the extent practicable to sell or lease farmland in the following order of priority—

(1) sale to operators of not larger than family-size farms, and

(2) lease to operators of not larger than family-size farms.

(c) Prohibits the selling of farmland if it will have a detrimental effect on the value of farmland in the area.

(d) Special consideration in the sale or leasing of farmland must would be given to previous owners if such owner has financial resources, and farm management skills and experience sufficient to assure a reasonable prospect of success. Leasing would be based on a competitive bid basis.

6. Requires the Farm Credit System to provide a borrower with copies of the appraisals of the assets of the borrower.

7. Prohibits the Farm Credit System from requiring additional collateral on a loan if the borrower is current in the payment of principal or interest.

8. Prohibits the Farm Credit System from foreclosing on a borrower for failure to provide additional collateral if the borrower is current in the payment of principal or interest.

9. Before providing a new loan to a borrower or entering into an installment contract for the purchase of farmland acquired by the Farm Credit System, the borrower must purchase stock in the farm credit system.

10. Prohibits the Farm Credit System from raising the interest rate on a loan that has been classified.

11. Limits operating expenses of FCS institutions to 1 percent above the average cost of bonds issued by the System.

12. Requires the Farm Credit Administration, within 60 days from the date of enactment and every 90 days thereafter, to determine whether the Farm Credit System is in need of financial assistance.

TITLE III: FARMERS HOME ADMINISTRATION

1. Principal/Interest Restructuring Program:

(a) If the costs associated with foreclosure equal or exceed the cost of restructuring a loan in an amount which will enable the borrower to make payments, the FmHA will be required to restructure the loan in lieu of foreclosing; and

(b) Eligible borrowers are those who:

(1) are delinquent in payments of principal or interest during the period beginning on the date of enactment and ending 3 years after such date;

(2) demonstrate that the delinquency is beyond the control of the borrower;

(3) derived not less than 50 percent of their gross annual income for three of the past five years from agriculture; and

(4) had gross agricultural sales in excess of $30,000 for 3 of the past 5 years.

2. Prohibits the FmHA from requiring additional collateral on a loan if the borrower is current in the payment of principal or interest.

3. Prohibits the FmHA from foreclosing on a borrower for failure to provide additional collateral if borrower is current in the payment of principal or interest.

4. Authorizes the FmHA to make loans to farmers and ranchers for the purpose of producing alternative crops. Alternative crops are those not traditionally produced in the area.

TITLE IV. MISCELLANEOUS PROVISIONS.

1. Establishes an InterAgency Agricultural Task Force to assist commercial agricultural banks and the borrowers of the banks to resolve present economic problems and to facilitate commercial bank lending to agriculture in the future.

2. Requires regulations to be issued within 90 days from the date of enactment.

3. (a) Authorizes appropriations as necessary; and

(b) Requires that no less than $30 million nor more than $35 million of the funds appropriated for the Interest Rate Reduction Program authorized by the 1985 farm bill be used to fund the Interest Rate Buy-Down program authorized by this Act in Fiscal Year 1986.

By Mr. DURENBERGER (for himself, Mr. HOLLINGS, Mr. KENNEDY, Mr. THURMOND, Mr. CHAFEE, Mr. BENTSEN, Mr. BAUCUS, and Mr. MOYNIHAN):

S. 2333. A bill to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income pregnant women and children; to the Committee on Finance.

MEDICAID MATERNAL AND INFANT AMENDMENTS

● Mr. DURENBERGER. Mr. President, I am proud to introduce the Medicaid Maternal and Infant Amendments of 1986 today along with my distinguished colleagues from both sides of the aisle. This bill would enable States to expand and target Medicaid prenatal, delivery, and postpartum services to mothers, and medical care to their infants up to age 1.

Health care in America must be judged not only on its ability to cure sickness, but also on its capacity to keep people well. Nowhere is this more important than in the health of mothers and children. Preventive services for them will not only alleviate many deaths and much suffering, but more than pay for itself by giving these babies a fighting chance to grow up healthy and become productive citizens.

LEGISLATIVE HISTORY

In 1985, I sponsored S. 505, the Maternal and Child Health Preventive Care Amendments of 1985, with my colleague from Texas, Senator BENTSEN. It is gratifying to me that our colleagues in Congress agreed that by

spending a few cents now so that States can target expanded Medicaid prenatal services, we can save lots of dollars down the road. And at the same time improve the lives of so many Americans. S. 505 was included in the fiscal year 1986 budget reconciliation package that was signed into law by the President last week.

Today's proposal is the next logical step after S. 505 in providing needed health services to pregnant women and their infants.

Also last fall, as chairman of the Intergovernmental Relations Subcommittee of the Governmental Affairs Committee, I conducted a hearing on S. 1209, the National Commission on Infant Mortality which I cosponsored with the ranking minority member of the subcommittee, Senator CHILES. We held the hearing at Providence Hospital here in Washington to focus attention on an institution that has made a commitment to affordable maternity care for poor women. Through its Center for Life, Providence Hospital subsidizes maternity care for about 300 low-income pregnant women each year.

At the hearing, we heard from Sarah Brown of the Institute of Medicine who described IOM's landmark study on infant mortality. She and the others who testified added fuel to the hearing's fire. Infant mortality is a nationwide problem that needs Federal attention, now.

I should add that last week I also cosponsored comparable legislation, S. 2288, the Infant Mortality Prevention Act, along with my colleagues, Senators CHILES and BENTSEN. Today's bill goes further than S. 2288. While S. 2288 moves in the right direction, we are taking a bolder leap today.

I endorsed both measures because I will support any and all proposals that would move the Congress in the direction of preventing death or disability for this Nation's infants. As I have said so many times, the best incubator of all is the mother's womb, not the machinery of the neonatal intensive care unit. If we are going to make better lives for our children, we have to assure they have every chance when they enter this world, whether they are rich or poor.

Today's legislation is a logical next step to reduce infant mortality and morbidity in this country.

NEED FOR THIS LEGISLATION

While many States are probably going as far as they can on income security programs like AFDC, this proposal would enable States that choose to expand their Medicaid coverage, to target this high risk group who would otherwise not qualify for Medicaid. This is essential if Government-sponsored health programs are going to make a meaningful contribution to preserving the health of our Nation's children, rather than financing sick care once they become categorically indigent.

The Medicaid Maternal and Infant Amendments of 1986 also has roots in the work of the Southern Governors' Task Force on Infant Mortality, chaired by the Governor of South Carolina, Richard Riley. This able group offered a number of legislative recommendations designed to enable States to expand and target programs aimed at reducing infant deaths and disabilities. Its work has also been endorsed by the National Governors' Association.

This Nation has come a long way in improving the health of infants and children. Since the enactment of Medicaid in 1965, we have reduced the U.S. infant mortality rate by over 50 percent. This is impressive, but a little explanation of how we did this will show that more work needs to be done. The credit for these achievements' survival is due in large part to advances in technology—neonatal intensive care units, NICU's. And the reason why so many infants spend their first few weeks of life in NICU's? Because their birthweight was too low to allow them to survive on their own without the support of fancy and expensive technology—expensive to the tune of about $1,250 a day in a typical NICU in Minneapolis or St. Paul.

These low birthweight babies are 40 times more likely to die during their first month of life and five times more likely to die within their first year of life than plump, normal weight newborns. They are also at a much higher risk of disabilities such as cerebral palsy, mental retardation, and learning disabilities. And the tragedy is that many of these destinies are often preventable for these little babies.

Although we've done a very good job of keeping low birthweight babies alive in NICU's, we have a poor record as a nation in preventing low birthweights in the first place. As a matter of fact, between 1971 and 1981, we reduced the incidence of babies being born at low birthweights by less than 1 percent.

What all this means is that we must write out a check today as an investment in our future. There is little question that this approach not only improves maternal and child health, but it also saves our health care system a substantial amount of money. In the recent study by the Institute of Medicine, it was shown that every $1 spent on prenatal care saved $3.38 in the first year of a child's life.

The Medicaid Maternal and Infant Amendments of 1986 reflects an important national purpose—doing all we can to help moms save healthy babies. My colleagues on the Budget Committee, Senators DOMENICI, CHILES, and HOLLINGS, set aside $100 million in additional Medicaid spending for a new infant mortality initiative. Today's legislation offers us a wise and prudent way to allocate those funds.

Our bill is another step on the road to prevention and to cost-effective health care spending. I will soon be introducing another bill with Senator KENNEDY which will take us even further down that road. I urge my colleagues, when considering these proposals, not to be victimized by those who espouse short-sighted budgeteering. These proposals represent the responsible way to deliver valuable services while containing costs—through far-sighted, humane, and cost-effective health policy. It's not often that a bill is presented which provides health care services to those in need while at the same time saving society the emotional and financial costs of death and disability. This is just such a bill and I urge all my colleagues to support it.

EXPLANATION OF THE BILL

Under current law, States that want to provide essential health care under Medicaid to poor women and infants, generally cannot do so without also providing cash welfare. Our legislation would allow States, at their option, to offer Medicaid to poor pregnant women and their infants whose family income is above the Aid to Families With Dependent Children [AFDC] standards, but below 100 percent of the Federal poverty line. There are currently 3.4 million women of childbearing age living in households below the Federal poverty line who are not covered by Medicaid. These women have little of any access to prenatal services. It is time to make early prenatal care more widely available.

States could not reduce their AFDC levels in order to expand the Medicaid Program. The existing resources requirements of Medicaid law would still apply. States could set their income threshold at any point up to 100 percent of the Federal poverty level.

The establishment of this new optional categorically needy group would give States the flexibility to target their Medicaid coverage of poor pregnant women and infants who are now ineligible for AFDC due to income or family status without raising the AFDC eligibility levels.

Mr. President, I ask unanimous consent that the bill and the text of my statement from this morning's press conference be printed in the RECORD at this point.

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

S. 2333

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 "Medicaid Maternal and Infant Amendments of 1986"

SEC. 2. MEDICAID ELIGIBILITY OF LOW-INCOME INFANTS AND PREGNANT WOMEN.

(a) IN GENERAL.—

(1) Section 1902(a)(10)(A) of the Social Security Act (42 U.S.C. 1396(a)(10)(A) is amended by adding at the end thereof the following new clause:

"(iii) at the option of the State, as provided in subsection (1), to—

"(I) any pregnant woman during the period consisting of her pregnancy and the 60-day period following the last day of the pregnancy, if such woman's resources, including the resources of her family, meet the resources test of eligibility for medical assistance under the State plan approved under this title applicable to a family with dependent children, and such woman's income, including the income of her family, (determined in accordance with subsection (m)) does not exceed the higher of the income test of eligibility for medical assistance under such plan applicable to a family with dependent children or 100 percent of the official poverty line for an individual or for a family of the same size, as appropriate, established and adjusted under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)); and

"(II) any individual who has not attained one year of age without limitation as to amount, duration, or scope, if such individual's resources, including the resources of his or her family, are such that the individual meets the resources test of eligibility for medical assistance under the state plan approved under this title applicable to a family with dependent children, and such individual's income, including the income of his or her family (determined in accordance with subsection (m)) does not exceed the higher of the income test of eligibility for medical assistance under such plan applicable to a family with dependent children or 100 percent of the official poverty line for an individual or for a family of the same size, as appropriate, established and adjusted under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)); and

"(II) any individual who has not attained one year of age without limitation as to amount, duration, or scope, if such individual's resources, including the higher of the income test of eligibility for medical assistance under such plan applicable to a family with dependent children or 100 percent of the official poverty line for an individual or for a family of the same size, as appropriate, established and adjusted under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).".

(2) Section 1902 of such Act is further amended by adding at the end thereof the following new subsections:

"(1) A State plan may not elect the option of furnishing medical assistance to individuals described in subsection (a)(10)(A)(iii) unless the State has in effect, under its State plan approved under part A of title IV, income and resource tests for eligibility that are no stricter than those in effect on the date of the enactment of this subsection and payment levels that are not less than the payment levels in effect under such plan on such date.

"(m) In applying the income standards established under subsection (a)(10)(A)(iii), each State shall take into consideration the same income and expense (including work-related expenses) and disregard the same items of income in the same manner as they would be taken into account or disregarded under the State's plan under part A of title IV.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 1902(a)(17) of such Act is amended by inserting ", except as provided in paragraph (10)(A)(iii)," after "which" the first place it appears.

(2) Section 1903(f) of such Act (42 U.S.C. 1396(f)) is amended—

(A) in paragraph (1) by striking out "paragraph (4)" and inserting in lieu thereof "paragraphs (4) and (5)"; and

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

"(5) The limitations on payment imposed by paragraphs (1), (2), and (3) of this subsection shall not apply with respect to any amount expended by a State as medical assistance for any individual eligible for such assistance by reason of section 1902(a)(10)(A)(iii).".

SEC. 3. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by section 2 of this Act shall apply to medical assistance, provided under a State plan approved under title XIX of the Social Security Act, for calendar quarters beginning more than six months after the date of the enactment of this Act.

REMARKS OF SENATOR DURENBERGER—MATERNAL AND CHILD HEALTH PRESS CONFERENCE, APRIL 17, 1986

Some of you may have been to John Heinz' press conference earlier this morning about preserving the quality of health care for Medicare recipients—an effort that Ted and I and many of our colleagues have been very involved in. And here we are looking at the other end of the spectrum—protecting the health of the unborn and the newborn.

Last week I joined my colleagues Lawton Chiles and Lloyd Bentsen in introducing S. 2288, the Infant Mortality Prevention Act or IMPACT. The bill we are introducing today goes a step further in protecting maternal and child health.

The late Hubert Humphrey once said the moral test of government is how it treats those in the dawn of life, the children; those in the twilight of life, the elderly; and those in the shadows of life—the sick, the needy and the handicapped.

Those words have, in a sense, taken on added meaning in these days of scarce federal resources. The uncontrolled increase in hospital and other acute care services sapped the financial strength of wellness-care and health promotion.

We have made great progress in the past several years in slowing the increase in the cost of health care. But the deficit crunch has led some people to believe there still isn't enough money to go around—that to do all we need to do, we need to "ration" our health care dollars, making decisions on who deserves care and how much. That's baloney.

The health care message for the 80s is not to ration health care, but to improve both the quality and the availability of health care by setting priorities. That is what we are doing today with this legislation. Because there is no greater priority than a newborn life.

This bill will help ensure a healthy entry into this world for millions of American children, by allowing states to offer prenatal, delivery and post-delivery medical care to all women and their infants living at or below the federal poverty level.

What do I mean by priority-setting in health care spending? I mean, for example, stopping our policy of subsidizing some people's unhealthy choices at the expense of those whose health problems are not of their own making. Hundreds of thousands of Americans are smoking themselves into coronaries and lung cancer. The total economic cost of smoking is $41 billion a year, including $4 billion to Medicare and Medicaid.

And yet, some people will tell you we don't have enough money to pay for effective, comprehensive medical care for low-income pregnant women, to give our children a strong fighting chance at a healthy life. That's what I call misplaced priorities.

We're not here this morning to talk about some research program or grand experiment. In large part, it's just plain old common sense in about 10 one-hour doses over a 9-month pregnancy. We know that prenatal care significantly increases the chances of producing a healthy child. For example, prenatal services can drastically reduce the frequency of low-birthweight babies, who are 40 times more likely than other infants to die within the first year, and who tend to suffer a wide range of long-term health problems.

We also know who we need to reach. Women who are poor . . . who are black or Native American . . . who have no health insurance . . . who live in inner-cities or rural areas . . . who live in the southern United States—These women are much more likely to give birth to unhealthy children, simply because they are denied access to proper health care or to the information telling them how to get it.

The Medicaid program can offer these women the help they need—especially now, under a recent change in the program, initiated in my Health Subcommittee, which allows more comprehensive prenatal care services under Medicaid. But as many as 3.4 million women of child-bearing age do not have access to Medicaid because they don't fit the qualifications for AFDC welfare—even though they are living below the poverty line. Our legislation allows states to offer their Medicaid coverage to those women, and it is our sincere hope that the states will do so.

The cost of the loss of newborn life is immeasurable. The cost of caring for infants with permanent disabilities is massive. The annual cost of neonatal intensive care alone exceeds $1.5 billion. And the price of special education and long-term care for the life of each child with chronic disabilities can easily reach $400,000. Compare that figure with the projected cost of the first phase of this program: $100 million. In sheer economic terms, it will pay for itself with the first 250 healthy children it produces.

Of course, we must guarantee all children adequate care after they're born. But it's just good sense to put our money up-front in preventive care to give our kids a healthy start from the moment of birth.

● Mr. HOLLINGS. Mr. President, today we initiate an attack on one of the most challenging problems our Nation faces today: Infant mortality and low birthweight babies. The future of any nation depends on the well-being of its children. Yet, the rate of low birthweight deliveries is higher in the United States than in 12 other developed countries. The legislation we are introducing signals a partnership between the Federal Government and the States to get at the root of these life-threatening problems. Our bill, Mr. President, implements the solution that all studies and our own

common sense tells us is the easiest, least costly, most appropriate response to reducing infant mortality and low birthweight; that is, providing adequate prenatal care for women and comprehensive care for the infant. The Federal Government has long supported prenatal care and counseled all women to secure such care early in pregnancy. We are, therefore, uniquely positioned to play an important role in the effort to ensure ready access to these vital services.

To assume this role, we must first remove some existing barriers. Under current legislation, States cannot provide essential health care services to poor women and infants without first raising the cash welfare level to include them. This is a barrier to provision of these services because many States cannot afford to provide both the health services needed and the additional welfare benefits. Also, Medicaid regulations, do not routinely permit States to target only these particular health services. Our bill makes an important change by amending the Medicaid statute to permit States to provide Medicaid coverage for pregnant women and infants whose incomes are above the State AFDC standard of need but within the Federal poverty level without requiring the prior incurrence of medical expenses. Our bill maintains the State's current AFDC match rate and resource requirements and contains a hold-harmless provision requiring States to maintain their current AFDC eligibility level to participate in this option. A minimum benefit period equal to the duration of pregnancy plus 60 days would be established in order to prevent loss of coverage in mid-pregnancy.

Mr. President, as a former Governor of South Carolina, I can say with some authority that no matter what your agenda is, when you take office, the fact of infant mortality and low birthweight demands your attention. When I was Governor, several of my friends insisted that I tour the State to see children with swollen bellies, with worms, with all forms of birth defects; people who were continually hungry; people who had no decent place to live and were literally drinking their own sewage. Since I had jobs and economic development as a priority and was working to convince industry that South Carolina was the ideal place for them to locate, it was not exactly the kind of public relations campaign I was seeking. But mothers and children who were malnourished and had virtually no access to health care of any kind were a fact of life in the State of which I was Governor, and I did see these people and their condition demanded action on my part. There is probably not a Member of this body who has not heard me quote the figures that each dollar spent to provide prenatal care and food supplements to pregnant women through WIC can save $3 by reducing the incidence of high-risk births. This is largely due to the fact that, working with my friend, Hubert Humphrey, WIC was the action I took in response to the hunger I saw as Governor of South Carolina.

It came as no surprise to me that, in 1984, the Southern Governors' Association established the Regional Task Force on Infant Mortality, or to learn that my own Governor, Richard W. Riley, was to be its chairman. The seven States with the highest infant mortality rates were in the South, and South Carolina was the worst. The task force not only did a superb job of bringing national attention to our problems in the South, but it also let the Nation know what we are doing about them and what remains to be done. In July 1985, the task force issued three reports which make realistic, pragmatic recommendations and outline action plans for comprehensive solutions to the problems of infant mortality and low birthweight. Among the recommendations for Federal action was amendment of the Medicaid law to permit States to provide assistance to poor families whose incomes are over the State's AFDC standard of need but below the Federal poverty level. This proposal was subsequently endorsed unanimously by the National Governors' Association in its February 1986 meeting.

Medicaid is the Nation's primary financing source for the health care of poor mothers and children, but current Medicaid criteria have produced obstacles to provision of preventive care in too many instances. It has been suggested by some that the Medically Needy Program could provide these services, but this important program is a catastrophic health program that is not oriented to providing preventive and primary care services. Eligibility for benefits is based on a spend-down feature which requires the incurrence of expenses prior to receiving assistance. The catastrophic design means the program pays for services such as hospitalization, when lower cost treatments, had they been accessible, could have prevented the need for more expensive care. It is in the long-term interest to provide preventive care to childbearing women and young children with incomes below the Federal poverty level—to prevent incidence of costly conditions that may last a lifetime.

Historically, Congress has not done as well as it might in funding preventive care. This has happened, I believe, because of the pressure we are under to be accountable for the expenditure of tax dollars; and, of course, this is proper. But what has evolved is a system of paying for illness instead of wellness. In our efforts to be accountable, it is much easier to prove that we have provided hospitalization for a specific number of patients with heart attacks over a given period, for example, than that expenditure of tax dollars prevented a certain number of heart attacks. We feel much more comfortable quoting the number of neonatal intensive care days paid for with Federal funds than saying how many low-weight births we prevented. Only recently have we paid serious attention to health promotion and disease prevention, and the data is now available which provides us sufficient statistical evidence in aggregate figures to support more preventive measures, such as reduction in infant mortality and low birthweight. The figures prove preventive services are cost-effective.

In 1982, the Institute of Medicine convened a planning group to explore how the Nation might best invest its resources to promote child health and development. The report of the resulting Committee to Study the Prevention of Low Birthweight was reviewed by the National Academy of Sciences, the National Academy of Engineering, and the Institute of Medicine. After extensive study, the report recommends expansion of prenatal services to the existing Medicaid population. The report states:

> Although the neonatal mortality rate in the United States has improved over the past 15 years, there has not been a comparable decrease in low-weight births. Instead, the mortality decline has been accomplished primarily by improving the survival of low birthweight infants through very costly neonatal intensive care. The association of neurodevelopmental handicaps and congenital anomalies with low birthweight has been well established; low birthweight infants also are susceptible to a wide range of other conditions, such as lower respiratory tract infections, learning disorders, behavior problems, and complications of neonatal intensive care interventions.

The Nation is currently spending about $700 million per year just on hospital care for high-risk infants; this does not include the cost of Medicaid of long-term institutionalization of children left permanently disabled by preventable causes or the cost of outpatient care resulting from the chronic problems to which low birthweight babies are prone. It is estimated that for the population currently eligible for Medicaid, each dollar spent to provide comprehensive maternity care could save nearly $2 by reducing prematurity and low birthweight.

Mr. President, I ask unanimous consent to include in the RECORD a statistical information table from "Preventing Low Birthweight" at the end of my remarks.

The study referenced in this table includes only the population currently Medicaid eligible and reflects only savings from providing more comprehensive prenatal care. Reason dictates

that if the savings projected here would be realized for a population that is already eligible for and receiving some prenatal services, even larger savings could be expected by providing services for the populations covered by this bill.

Cost comparisons developed by the Southern Regional Task Force on Infant Mortality state the cost of prenatal care, hospital costs for mother and baby, rehospitalization, pediatric health care, and rehabilitative costs for a normal baby are about $2,000 per year. The same costs for a low birthweight baby of 4 pounds is about $54,800 per year. For a low birthweight baby requiring institutionalization, the costs can go as high as $389,800 per child.

Mr. President, I ask unanimous consent to include a table in the RECORD, at the conclusion of my remarks that shows these costs.

Mr. President, we have been losing the battle in the last few years. According to data submitted by the Children's Defense Fund in support of additional funding in the fiscal year 1987 budget, key material and child health indicators are eroding.

Between 1982 and 1983, postneonatal mortality—deaths of infants ages 28 days to 1 year—rose 3 percent nationwide and 5 percent nationwide for black infants. The mortality increase among black babies was the first such recorded increase in 18 years.

In 1983, the percentage of women receiving late or no prenatal care rose for the third consecutive year. The percentage of premature and low-birthweight births also rose in 1983.

Over half of all black preschool children are inadequately immunized against childhood diseases. Between 1983 and 1984, there was a 69-percent increase in measles cases nationwide.

One-third of poor children with family incomes below the Federal poverty level are either completely uninsured or are insured for only a portion of the year. One-third of all poor women of childbearing age are uninsured. Medicaid reached only 46 percent of the poor and near-poor population in 1985, down from 65 percent in 1969. Title V Maternal and Child Health Clinics serve only a fraction of all uninsured mothers and children; clinics throughout the country report enormous waiting lists. In 1985, WIC reached fewer than half the women, infants, and children eligible; 10 States served 30 percent or fewer of their WIC-eligible populations.

Mr. President, the problem we face is well-defined. We know what to do. Study after study has shown that more than any other factor, adequate prenatal and post partum care reduces infant mortality and low birthweight. It is time to act, and the bill we introduce today is a very significant step in the right direction. I urge my colleagues to join with us in cosponsoring this important bill and working for its quick passage.

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

The birth of infants weighing less than 2,500 grams, and particularly those of 1,500 grams or less, imposes a large economic burden on our nation by contributing substantially to neonatal mortality, to disability among surviving infants, and to the cost of health care.

The provision of adequate prenatal services, as currently practiced, to all pregnant women who receive public assistance and who have attained less than a high school education would require increased expenditures, but would decrease the overall fiscal outlays of governmental agencies for the care of the low birthweight infants born to these high-risk women. Savings in the cost of care of low birthweight children would probably more than offset the additional cost for the prenatal services. Similarly, further net savings in overall fiscal outlays for the care of low birthweight children would be likely to result from the provision of appropriate prenatal services to other groups of women who are at high risk of delivering low birthweight infants.

TABLE 10.10.—COST SAVINGS AT DIFFERENT LOW BIRTHWEIGHT [LBW] RATES

LBW rate (percent)	Total LBW infant costs (TC_0)	Reduction in cost of LBW infant care (TC_0)	Outlays for additional prenatal care (TC_1)	Net cost savings (TC_0–TC_1)
11.5	$188,231,351			
10	163,682,681	$24,548,670	$12,107,200	$12,439,470
9	147,318,844	40,912,507	12,107,200	28,805,307

Note.—See Table 10.1 for definitions and formulas.

Source: Preventing Low Birthweight, National Academy Press, 1985.

INFANT MORTALITY RATES IN THE UNITED STATES, 1983
FINAL DATA

	Rank and State	Number of live births	Number of infant deaths	Infant mortality rate
1	New Hampshire	13,799	119	8.6
2	Vermont	7,954	69	8.7
3	Maine	16,666	145	8.7
4	Utah	39,474	346	8.8
5	North Dakota	12,380	110	8.9
6	Iowa	43,262	386	8.9
7	Montana	14,063	126	9.0
8	Massachusetts	76,081	690	9.1
9	Hawaii	19,123	180	9.4
10	Arizona	53,785	511	9.5
11	Washington	68,680	653	9.5
12	Oregon	39,977	385	9.6
13	Wisconsin	72,558	698	9.6
14	California	436,143	4,233	9.7
15	Wyoming	10,268	101	9.8
16	New York	248,617	2,872	11.6
17	Minnesota	65,563	644	9.8
18	Nebraska	26,232	259	9.9
19	Delaware	9,230	92	10.0
20	New Mexico	27,617	277	10.0
21	Colorado	54,662	548	10.0
22	Connecticut	41,097	416	10.1
23	Kansas	40,399	416	10.3
24	Nevada	14,312	153	10.7
25	Arkansas	34,996	373	10.7
26	Missouri	75,599	810	10.7
27	South Dakota	12,526	135	10.8
28	Idaho	18,748	203	10.8
29	West Virginia	25,882	283	10.9
30	Oklahoma	56,902	618	10.9
31	Texas	295,249	3,265	11.1
32	Ohio	158,769	1,775	11.2
33	Pennsylvania	158,201	1,784	11.3
34	Indiana	80,814	923	11.4
35	New Jersey	99,194	1,137	11.5
36	Kentucky	54,701	632	11.6
37	Rhode Island	12,595	147	11.7
38	Maryland	63,944	752	11.8
39	Michigan	133,118	1,569	11.8
40	Virginia	80,732	962	11.9

INFANT MORTALITY RATES IN THE UNITED STATES, 1983
FINAL DATA—Continued

	Rank and State	Number of live births	Number of infant deaths	Infant mortality rate
41	Florida	149,078	1,816	12.2
42	Alaska	11,998	149	12.4
43	Illinois	178,885	2,224	12.4
44	Tennessee	65,481	836	12.8
45	Alabama	59,061	774	13.1
46	North Carolina	83,884	1,106	13.2
47	Georgia	90,032	1,205	13.4
48	Louisiana	82,514	1,115	13.5
49	South Carolina	50,755	760	15.0
50	Mississippi	44,000	665	15.1
51	District of Columbia	9,333	180	19.3
	U.S. total	3,638,933	40,627	11.2
	White	2,904,250	28,301	9.7
	Nonwhite	1,320,710	23,568	17.8
	South	1,331,373	16,244	12.2
	Non-South	2,307,560	24,383	10.6

Note.—All data is 1983 final data from the National Center for Health Statistics.

SOUTHERN REGIONAL TASK FORCE ON INFANT MORTALITY

[Cost comparisons for low-birthweight infants]

	Normal weight baby (8 pounds)	Low birth weight baby (4 pounds)	Low birth weight baby requiring institutionalization
Prenatal care	$400	0	0
Hospital costs (mother)	800	$800	$800
Hospital costs (baby)	400	[1] 20,000	20,000
Re-hospitalization (first year)	0	[2] 10,000	10,000
Institutional costs (over 20 years)	0	0	359,000
Pediatric health care	[4] 400	[4] 4,000	
Rehabilitative costs	0	[3] [4] 20,000	
Total	[4] 2,000	[4] 54,800	[5] 389,800

[1] Approximately 30 percent of babies born to women with no prenatal care require hospitalization.
[2] Approximately 16 percent of low birth babies require re-hospitalization.
[3] Approximately 20 percent of low birth weight babies incur rehabilitative costs.
[4] Per year.
[5] Per child.●

● Mr. KENNEDY. Mr. President, this year, 287,000 babies will be born with low birthweight causing two-thirds of all infant mortality. A low-birthweight infant is 40 times more likely to die in the first month of life, 5 times more likely in the first year. Over the last decade, there have been solid gains in reducing the number of low-birthweight births. While there are many causes of low birthweight, there is one simple and effective solution: medical care during pregnancy.

Today, I am introducing with my colleagues in both the Senate and the House of Representatives a bill to make medical care more available to women and children. This measure will allow States to extend the Medicaid program to pregnant women and their infants who have poverty-level incomes but who are above the AFDC level for their State. This measure was recommended by the Southern Governors' Task Force on Infant Mortality and unanimously endorsed by the National Governors' Association.

There are 3.4 million women of child-bearing age who may benefit from this step. Medicaid coverage will give them access to prenatal care

which has been shown to bring down the rate of low birthweight by one-half to two-thirds. If we can reduce this rate by even 1 percent, we can save $42.5 million.

Countless families will be saved the anxiety of having a hospitalized infant. Thousands of babies will be saved from a lifetime of disability. And many infant lives will be saved. In addition, this measure may allow women who are trying to get off welfare to do so without sacrificing access to health care for themselves when they are pregnant or for their infants.

I believe the step we are taking today is a rational one. Universal access to health care for pregnant women and children should be our goal. This expansion of the Medicaid Program will take us one step closer to it.●

● Mr. BENTSEN. Mr. President, S. 2333 is an important bill, a bill that will take us a long way toward improving access to health services for women and infants at risk. For several years, I and a number of my colleagues have worked to improve targeting of Medicaid services for this population.

I am pleased today to be a part of yet another step in our effort to extend needed care to a vulnerable and often overlooked population. Governor Riley of South Carolina and the Southern Governors Task Force on Infant Mortality are to be congratulated both for developing a set of policy goals and for the educational campaign which they undertook in an effort to improve public understanding of the need for these changes.

It is now general knowledge that significant savings—financial as well as social—are associated with early intervention through good prenatal programs and preventive care for infants. As most of my colleagues are already aware, numerous studies have shown that an expenditure of $1 in prenatal services can yield as much as $12 in savings through reduced costs of intensive neonatal care and the long-term institutional expenditures that often accompany the handicaps associated with premature birth and low birthweight.

As Governor Riley's task force has shown, 10 of the 11 States with the most severe infant mortality rates are in the Southern region of the United States. In the South, it is estimated that 1 of every 15 mothers is likely to have a child with a discernible mental or physical handicap. While the national average is 6.8 percent, 7.6 percent of all babies born in the Southern States are low in birthweight—which is, of course, closely correlated with high rates of infant mortality, and the incidence of lifelong handicapping conditions.

Technically, S. 2333 assumes that States will be offered the option of extending coverage to those women and infants whose incomes exceed the current eligibility threshold for Medicaid, but who, nevertheless, are below 100 percent of the poverty level. While I am hopeful that we will be able to provide services to this entire population on enactment, it may be necessary to adjust eligibility to comply with final Congressional Budget Office cost estimates. However, if such a change is needed, I hope that members of the Finance Committee will join me in support of implementing this change as quickly as costs allow.

In sum, Mr. President, passage of S. 2333 will permit States to improve access to health care by restructuring eligibility and benefits under the Medicaid Program according to local priorities. I invite my colleagues to join with us in support of that goal.●

Mr. THURMOND. Mr. President, today my colleagues and I are introducing legislation which represents a major initiative toward reducing the high infant mortality rate of this Nation.

The United States has a higher infant mortality rate than many other developed countries such as Sweden, Japan, Denmark, Norway, France, Spain, Canada, East Germany, and the United Kingdom. Recent statistics indicate that for every 1,000 live births, approximately 11 babies will die before the age of 1 year. In my home State of South Carolina the problem is greater, with 15 deaths for every 1,000 live births.

Mr. President, two-thirds of infant deaths occur in the neonatal period—the first month of life. The factor most commonly associated with these newborn deaths is low birthweight. The smaller the baby, the poorer the chances of healthy survival. A low-birthweight baby is more likely to need costly special care. In addition, low-birthweight babies also have significantly higher rates of rehospitalization. To address the problem of low-birthweight infants, the Medicaid system needs to be improved. This legislation is designed to accomplish that goal.

Mr. President, Medicaid plays a critical role as the Nation's principal financing source for the health care of mothers and children who are financially unable to help themselves. However, as many as 3.4 million poor pregnant women a year are denied vital prenatal care because they are ineligible for Medicaid. Without proper prenatal care, many unnecessary low-birthweight babies are born who need significant ongoing medical attention. This, of course, means additional medical expenses. In many cases, the high medical expenses associated with low-birthweight babies drain the financial resources of the mother until she then becomes eligible for Medicaid. Medicaid then must pick up the tab for the expensive institutional medical treatment.

Mr. President, what is needed, and what this legislation provides, is an approach geared toward preventative medicine. Under this legislation, the Medicaid law would be amended to allow States, with an Aid to Families With Dependent Children [AFDC] standard of need above 50 percent of the Federal poverty level, to target Medicaid assistance to pregnant women and infants, without the State also being required to raise AFDC payments to this group. This action would be completely optional with the States. The idea behind this change is to remove a financial obstacle for many States that want to provide a compenhensive maternity and infant health-care package to indigent women, but have not done so because of the high cost of State matching requirements for AFDC payments.

Mr. President, the cost of this bill will be $100 million to the Federal Government. This amount has already been added to the Domenici-Chiles budget plan to cover the cost of the expansion, after the Budget Committee gave it careful consideration.

Mr. President, I want to emphasize that these moneys spent now will prove cost-effective over the long run. The American Academy of Pediatrics reported in 1984 that for every dollar spent on prenatal care, $2 to $10 can be saved down the road. "An ounce of prevention is worth a pound of cure." This is the approach of this legislation, and I urge my colleagues to support this bill.

By Mr. THURMOND:

S. 2334. A bill to amend section 207 of title 18, United States Code, to prohibit Members of Congress and officers and employees of any branch of the U.S. Government from attempting to influence the U.S. Government or from representing or advising a foreign entity for a proscribed period after such officer or employee leaves Government service, and for other purposes; to the Committee on the Judiciary.

INTEGRITY IN POSTEMPLOYMENT ACT

Mr. THURMOND. Mr. President, today, I am introducing tough, new legislation that will restrict all Federal employees from lobbying the Federal Government for 1 year, and from working for a foreign entity for 2 years, after they leave Government service.

This legislation also mandates a complete prohibition on certain high-level Federal officials from ever representing, assisting, advising, or lobbying in behalf of a foreign government or entity.

Mr. President, the potency of this legislation is that it applies to all Federal employees, regardless of rank,

71-059 O-87-21 (Pt. 6)

grade, or status, and that it mandates criminal penalties for violations—including fines of up to $250,000 and prison terms of up to 2 years.

It is a proposal whose time has come, and one which seeks to maintain public confidence and integrity in Federal Government service. In its simplest form, it provides a uniform, straightforward, and enforceable way to prevent those who are employed by the Federal Government from leaving public service and marketing their access and influence for private gain. It will also terminate violations of public trust by halting very high-ranking Federal officials, who by the nature of their jobs are privy to some of our Government's most sensitive information about national security and trade, from vending that information to a foreign entity.

There is something very disquieting to me, and I suspect the great majority of Americans, about high-level officials leaving the service of the Federal Government and going to work assisting, advising, lobbying, or in any way representing a foreign power for compensation. The absolute prohibition against this practice would help end the problem of foreign entities gaining knowledge and information, in any way, about such things as our Nation's international trade strategy or defense posture from former officials whose knowledge of those issues could do harm to this country if it is conveyed to others.

The officials affected by a lifelong prohibition would include, among others: Cabinet Secretaries; Director of Central Intelligence Agency; Secretaries of the armed services; U.S. Trade Representative; Director of the Federal Bureau of Investigation; and high-ranking White House officials.

Mr. President, this legislation is a starting place for the Congress to consider much-needed changes to the confusing and oftentimes conflicting laws and regulations now governing former Federal officials who lobby the Federal Government or work for a foreign entity. It is an attempt to restore rationality and effectiveness to the ethics provisions applying to the Federal Government. Toward that end, my bill would apply equally to all branches of the Federal Government and to all Federal employees—including Members of Congress, Government-established corporations, and the military.

The Judiciary Committee has tentatively set a hearing on this bill and other lobbying-related issues on April 29. I look forward to hearing testimony on this issue and to working with my colleagues on this important legislation.

Mr. President, I ask unanimous consent that a copy of this legislation be printed in the RECORD.

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

S. 2334

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Integrity in Post Employment Act of 1986".

SEC. 2. DISQUALIFICATION OF FORMER MEMBERS, OFFICERS, AND EMPLOYEES FROM ATTEMPTING TO INFLUENCE THE UNITED STATES GOVERNMENT OR REPRESENTING OR ADVISING A FOREIGN ENTITY.

(a) PROHIBITION.—(1) Section 207 of title 18, United States Code, is amended by striking out subsections (b) through (e) and inserting in lieu thereof the following:

"(b) Whoever, having been a Member of Congress, an officer or employee of the United States, including a special Government employee who has served in excess of sixty days during any period of three hundred and sixty-five consecutive days, in the executive, legislative, or judicial branch of the Government, or in any independent agency of the United States, or an officer or employee of a Government corporation, Government controlled corporation, or an independent establishment as defined in section 104 of title 5—

"(1) Within one year after termination of employment with the intent to influence makes any oral or written communication to any Member of Congress, officer or employee of the United States, including a special Government employee, in the executive, legislative, or judicial branch of the Government, or in any independent agency of the United States on behalf of another person (other than the United States) for compensation, financial gain, or other remuneration; or

"(2) within two years after termination of employment—

"(A) is employed by, or advises, represents, or assists any foreign entity for compensation, financial gain, or other remuneration; or

"(B) with intent to influence makes any oral or written communication to any Member of Congress, officer or employee of the United States, including a special Government employee, in the executive, legislative, or judicial branch of the Government, or in any independent agency of the United States on behalf of any foreign entity for compensation, financial gain, or other remuneration,

shall be fined not more than $250,000 or imprisoned not more than two years, or both.

"(c) Whoever, having been employed in a position listed in section 5312 or 5313 of title 5 or under section 105(a)(2)(A) of title 3, at any time after termination of employment—

"(1) is employed by, or advises, represents, or assists in any way, directly or indirectly, a foreign entity; or

"(2) with intent to influence makes any oral or written communication to any Member of Congress, officer, or employee of the United States, including a special Government employee, in the executive, legislative, or judicial branch of the Government, or in any independent agency of the United States on behalf of any foreign entity,

shall be fined not more than $250,000 or imprisoned not more than two years, or both.

"(d)(1) The prohibitions of subsections (a) through (c) shall not apply to a former Member, officer, or employee who is acting in his official capacity as an elected official of a Federal, State, or local government.

"(2) The prohibition of subsection (b)(1) shall not apply to an attorney appearing in a judicial proceeding before a court of the United States.".

(2) Section 207 of title 18, United States Code, is further amended—

(A) by striking out subsections (h) and (i);

(B) in subsection (f) by designating such subsection as subsection (e) and striking out "subsections (a), (b), and (c)" and inserting in lieu thereof "subsection (a)";

(C) by redesignating subsection (g) as subsection (f);

(D) in subsection (j) by redesignating such subsection as subsection (g) and striking out "subsection (a), (b), or (c)" in the first sentence and inserting in lieu thereof "subsection (a)"; and

(E) by inserting at the end thereof the following:

"(h) For purposes of this section the term 'foreign entity' means—

"(1) a foreign country;

"(2) a foreign political party;

"(3) a person outside of the United States, unless it is established that such person is an individual and a citizen of the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; or

"(4) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.".

(3) Subsection (a) of section 207 of title 18, United States Code, is amended by striking out "; or" at the end thereof and inserting in lieu thereof a comma and the following:

"shall be fined not more than $250,000 or imprisoned not more than two years, or both.".

(b) AMENDMENT TO CAPTION.—(1) Section 207 of title 18, United States Code, is further amended by striking out the caption for such section and inserting in lieu thereof the following:

"§ 207. Disqualification of former Members and employees and officers of any branch of Government from attempting to influence the United States Government or representing or advising a foreign entity".

(2) The table of sections for chapter 11 of title 18, United States Code, is amended by striking out the item relating to section 207 and inserting in lieu thereof the following:

"207. Disqualification of former Members and employees and officers of any branch of Government from attempting to influence the United States Government or representing or advising a foreign entity.".

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 of this Act shall be effective upon the date of enactment of this Act.

By Mr. ABDNOR (for himself, Mr. BURDICK, and Mr. PRESSLER):

S. 2336. A bill to protect United States cattlemen from imports of live Canadian cattle, and to require the International Trade Commission to conduct a section 201 investigation of

such imports; to the Committee on Finance.

MORATORIUM ON BEEF IMPORTS FROM CANADA

● Mr. ABDNOR. Mr. President, cattlemen in my home State of South Dakota and all across the United States have been suffering from years of economic stress. High interest rates, natural disasters, and imports of live cattle have left cattlemen without a profit and many are on the verge of bankruptcy.

Let me remind my colleagues that the American cowboy is a noble man who generally believes that little or no Government involvement in his industry is good. Ranchers do not derive any benefits from Federal farm programs and they don't want any. They haven't asked for handouts; instead, they are just asking for a fair shake.

Unfortunately, cattlemen haven't been getting a fair shake. Imports of live cattle have been streaming across our borders. Some of this beef is subsidized and unfairly undercuts in price the healthy, wholesome beef produced by American cattlemen. And while all beef entering the American market possibly isn't subsidized, this beef enjoys a de facto subsidy due to the high value of the U.S. dollar which allows foreign beef to be priced 20 to 30 percent below U.S. beef.

Of major concern to America's cattle industry is beef being imported from Canada. Canadian cattle have been pouring across our northern border. In my home State of South Dakota, semitruck loads of live cattle arrive every day. The reason for this glut of Canadian cattle on United States markets is threefold. First, it is the result of an over-valued U.S. dollar. Canadian beef producers enjoy an effective 20 percent or more subsidy in today's market. Second, imports of Canadian cattle are the result of provincial and national beef stabilization programs which give Canadian producers an unfair competitive advantage. Canada's National Beef Stabilization Program as well as provincial programs injure United States producers since our cattlemen do not benefit from such programs. Third, the herds of Canadian cattle on United States markets are the result of Canada's import policies which result in backdoor brokering. Backdoor brokering results when domestic beef in Canada is displaced by imports and when that domestically produced Canadian beef spills into the United States to make way for the imports. In essence, the United States beef market serves as a safety valve for anything Canada cannot consume.

At the present time Canada is importing subsidized beef from the European Community [EC]. Subsidized beef imports from the European Economic Community to Canada may be displacing domestically-produced Canadian beef to such an extent that Canadian cattle are being imported into the United States in increased quantities. This subsection or backdoor brokering needs immediate attention.

In 1983, Canada imported around 13 to 14 million pounds of beef products from the EC. In 1984, this rose to almost 50 million pounds.

Today I am introducing legislation to stop backdoor brokering from Canada. The legislation places a moratorium on the importation of live Canadian cattle.

The moratorium would remain in place while the International Trade Commission [ITC] undertakes and completes within 6 months a study under section 201 of the Trade Act of 1974 to determine if live cattle from Canada are being imported in such increased quantities as to be a substantial cause of serious injury to the beef industry in those States which serve as the major market areas for Canadian cattle. These States include Washington, Oregon, Idaho, Montana, Wyoming, North Dakota, South Dakota, and Minnesota.

Upon completion of the study, the moratorium would be lifted if the ITC did not find serious injury to the livestock industry. If, however, serious injury was found, the moratorium would remain in effect. The ITC would periodically update the study, not less than twice each year. If, as a result of any study update, the ITC found that the injury is no longer serious, the moratorium would be lifted.

Unless Congress takes action to stop backdoor brokering from Canada and protect United States cattlemen from unfair imports, the demise of the cattle industry and small ranchers and feeders will continue. Cattlemen aren't looking for a handout. They are only asking for a fair shake.●

By Mr. ROCKEFELLER (for himself, Mr. BINGAMAN, Mr. BYRD, Mr. RIEGLE, Mr. LEVIN, Mr. BAUCUS, Mr. CHILES, Mr. HEINZ, Mr. DECONCINI, Mr. HART, Mr. GORE, Mr. COHEN, Mr. DANFORTH, Mr. PRYOR, Mr. INOUYE, Mr. GORTON, Mr. LAUTENBERG, Mr. LEAHY, Mr. BUMPERS, Mr. METZENBAUM, Mr. MITCHELL, Mr. EXON, Mr. CRANSTON, Mr. EAGLETON, Mr. DODD, Mr. DIXON, Mr. MATSUNAGA, Mr. KERRY, Mr. KENNEDY, Mr. CHAFEE, Mr. MOYNIHAN, Mr. HOLLINGS, Mr. FORD, Mr. PROXMIRE, Mr. PELL, and Mr. BRADLEY.

S.J. Res. 327. Joint resolution to provide for the President to report on the status and implementation of the recommendations of the President's Commission on Industrial Competitiveness; to the Committee on Finance.

(The remarks of Mr. ROCKEFELLER and others, and the text of the legislation appear earlier in today's RECORD.)

ADDITIONAL COSPONSORS

S. 377

At the request of Mr. DECONCINI, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 377, a bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans, and for other purposes.

S. 1736

At the request of Mr. PRESSLER, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 1736, a bill to amend the Public Health Service Act to provide assistance for education, research, and treatment programs for Alzheimer's disease and related disorders, and for other purposes.

S. 1806

At the request of Mr. BOREN, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 1806, a bill to amend the Federal Election Campaign Act of 1971 to change certain contribution limits for congressional elections and to amend the Communications Act of 1934 regarding the broadcasting of certain material regarding candidates for Federal elective office, and for other purposes.

S. 2030

At the request of Mr. PRYOR, the names of the Senator from Illinois [Mr. SIMON], the Senator from Vermont [Mr. LEAHY], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 2030, a bill to establish an alternative procedure for the review of bid protests under the Competition in Contracting Act, and for other purposes.

S. 2103

At the request of Mr. MCCLURE, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 2103, a bill to clarify the application of the Clayton Act with respect to rates, charges, or premiums filed with State insurance departments or agencies.

S. 2176

At the request of Mr. BOREN, the names of the Senator from Tennessee [Mr. GORE], the Senator from Colorado [Mr. HART], the Senator from Vermont [Mr. LEAHY], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 2176, a bill to amend chapter 11 of title 18, United States Code, to prohibit any former high-level Federal civilian officer or employee or high-ranking officer of a uniformed service from representing or advising a foreign principal for a

period of at least 5 years after leaving Government service.

S. 2187

At the request of Mr. DECONCINI, the names of the Senator from North Dakota [Mr. BURDICK], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 2187, a bill to amend title 38, United States Code, to exempt from sequestration certain benefits for veterans and dependents and survivors of certain veterans which are paid based on the service-connected disability or death of veterans.

S. 2209

At the request of Mr. DOLE, the name of the Senator from California [Mr. WILSON] was added as a cosponsor of S. 2209, a bill to make permanent and improve the provisions of section 1619 of the Social Security Act, which authorizes the continued payment of SSI benefits to individuals who work despite severe medical impairment; to amend such act to require concurrent notification of eligibility for SSI and Medicaid benefits and notification to certain disabled SSI recipients of their potential eligibility for benefits under such section 1619; to provide for a GAO study of the effects of such section's work incentive provisions; and for other purposes.

At the request of Mr. HUMPHREY, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 2261, a bill to amend the Service Contract Act of 1965 to reform the administration of such act, and for other purposes.

S. 2273

At the request of Mr. KASTEN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2273, a bill to amend the Internal Revenue Code of 1954 to deny the tax exemption for interest on industrial development bonds used to finance acquisition of farm property by foreign persons.

S. 2288

At the request of Mr. CHILES, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Connecticut [Mr. DODD] were added as cosponsors of S. 2288, a bill to amend title XIX of the Social Security Act to permit States the option of providing prenatal, delivery, and postpartum care to low income pregnant women and of providing medical assistance to low-income infants under 1 year of age.

S. 2295

At the request of Mr. GOLDWATER, the name of the Senator from Missouri [Mr. EAGLETON] was added as a cosponsor of S. 2295, an original bill to amend title 10, United States Code, to reorganize and strengthen certain elements of the Department of Defense, to improve the military advice provided the President, the National Security Council, and the Secretary of Defense, to enhance the effectiveness of military operation, to increase attention to the formulation of strategy and to contingency planning, to provide for the more efficient use of resources, to strengthen civilian authority in the Department of Defense, and for other purposes.

S. 2300

At the request of Mr. STAFFORD, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 2300, a bill to amend the Toxic Substances Control Act so as to require the Environmental Protection Agency to set standards for identification and abatement of hazardous asbestos in Federal and other buildings, and for other purposes.

SENATE JOINT RESOLUTION 264

At the request of Mr. PRYOR, the names of the Senator from Montana [Mr. BAUCUS] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Joint Resolution 264, a joint resolution designating April 28, 1986, as "National Nursing Home Residents Day."

SENATE JOINT RESOLUTION 271

At the request of Mr. RIEGLE, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of Senate Joint Resolution 271, a joint resolution designating "Baltic Freedom Day."

SENATE JOINT RESOLUTION 318

At the request of Mr. ABDNOR, the names of the Senator from West Virginia [Mr. BYRD], the Senator from Arizona [Mr. DECONCINI], and the Senator from Nebraska [Mr. ZORINSKY] were added as cosponsors of Senate Joint Resolution 318, a joint resolution designating November 1986 as "National Diabetes Month."

SENATE RESOLUTION 369

At the request of Mr. MCCONNELL, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of Senate Resolution 369, a resolution relating to trade between the United States and the Republic of Korea.

SENATE CONCURRENT RESOLUTION 129—EXPRESSING OPPOSITION TO EUROPEAN ECONOMIC COMMUNITY RESTRICTIONS ADVERSELY AFFECTING UNITED STATES AGRICULTURAL EXPORTS

Mr. DOLE (for Mr. HELMS, for himself, Mr. DOLE, Mr. ZORINSKY, Mr. WILSON, Mr. BOREN, Mr. BOSCHWITZ, Mr. DANFORTH, Mr. ABDNOR, Mr. COCHRAN, Mr. EXON, Mr. GORE, Mr. HARKIN, Mr. RIEGLE, Mr. SYMMS, Mr. THURMOND, Mr. GRAMM, Mr. MATTINGLY, Mr. NICKLES, Mr. PRESSLER, Mr. DIXON, and Mr. ANDREWS) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 129

Whereas, as part of the terms under which Spain and Portugal joined the European Community in January of this year, the European Community has imposed quotas on oilseeds and oilseed products in Portugal, in violation of the General Agreement on Tariffs and Trade (GATT);

Whereas the European Community has imposed a quota requiring that Portugal purchase at least 15.5 percent of its grain from other European Community countries, in violation of the GATT;

Whereas the European Community has replaced GATT-bound 20 percent tariffs on corn and grain sorghum imports entering Spain with the European Community's variable levy system, which is currently equivalent to a tariff of more than 100 percent, before negotiating compensation as agreed to previously and directed by international trade rules;

Whereas the restrictions imposed by the European Community will impair access for as much as $1 billion worth of United States agricultural products to markets in Portugal and Spain and adversely affect the economic livelihood of United States farmers and related industries;

Whereas, despite Cabinet-level approaches to the European Community in recent months, the European Community has been unwilling to rescind the illegal quotas or to compensate the United States for the damage caused by the higher tariffs;

Whereas prior enlargements of the European Community in 1973 and 1981 have adversely affected United States agricultural exports to the Community;

Whereas the President on March 31 announced his intention to use existing authority to respond to the restrictions of the European Community by imposing quotas and tariff increases or by withdrawing tariff bindings to produce equivalent restrictive effects or comparable loss of trade on European Community imports into the United States; and

Whereas the President's proposed actions to defend legitimate United States trade interests are consistent with his belief in a free but fair trade policy: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the Administration should continue to firmly oppose actions by the European Community to (A) impose quotas on oilseeds and oilseed products in Portugal, (B) impose a grain purchase requirement quota on Portugal, and (C) place variable levies on corn and grain sorghum entering Spain before negotiating compensation; and

(2) Unless the European Community rescinds the trade-restrictive measures referred to in clause (1) or the United States receives prompt and complete compensation for any loss of trade resulting from the enlargement of the European Community, the Administration should take actions, such as the President has announced, to impose trade restrictions on a sufficient value of exports of the European Community to the United States to reestablish the balance of concessions under the GATT and other international trade agreements.

SEC. 2. The Secretary of the Senate shall transmit copies of this resolution to the President, the Secretary of State, the Secretary of Agriculture, the Secretary of Com-

merce, the Secretary of the Treasury, the United States Trade Representative, the Head of the Delegation of the European Community to the United States, and the Ambassadors to the United States for each of the member states of the European Community.

SENATE CONCURRENT RESOLUTION 130—RECOGNIZING A VISIT BY DESCENDANTS OF CERTAIN SETTLERS OF SOUTH CAROLINA TO SWITZERLAND AS AN INTERNATIONAL GESTURE OF GOODWILL

Mr. HOLLINGS submitted the following concurrent resolution; which was referred to the Committee on the Judiciary.

S. CON. RES. 130

Whereas in 1732 Jean Pierre Purry, under the auspices of the British authorities, founded the town of Purrysburg in the lower south eastern portion of South Carolina, on the Savannah River;

Whereas Colonel Purry, a native of Neufchatel, Switzerland, had promoted the colonization of Carolina and gathered a group of settlers from among the industrious and diligent Swiss;

Whereas the town of Purrysburg, South Carolina, was originally chartered as Swiss Quarter and prospered during its early years, boasting strong commercial, civil, religious, and military activities;

Whereas during the Revolutionary War, Purrysburg served as a headquarters for General Benjamin Lincoln;

Whereas President George Washington shared the Huguenot descent of the Purrysburg settlers and visited the town during a tour of the Southern States;

Whereas Purrysburg was abandoned after the Revolutionary War as the result of the growth of coastal cities such as Charleston; and

Whereas the descendents of the original settlers of Purrysburg, South Carolina, are visiting Neufchatel, Switzerland in October of 1986: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress recognizes the visit by the descendants of the original settlers of Purrysburg, South Carolina, to Neufchatel, Switzerland in October of 1986 as an international gesture of goodwill.

SENATE CONCURRENT RESOLUTION 131—RELATING TO THE RELEASE AND SAFE PASSAGE OF NAUM MEIMAN AND INNA KITROSSKAYA-MEIMAN

Mr. HART (for himself, Mr. BOSCHWITZ, Mr. DECONCINI, Mr. GRASSLEY, Mr. MOYNIHAN, and Mr. MATHIAS) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 131

Whereas the Helsinki Final Act of the Conference on Security and Cooperation in Europe commits the signatory countries to respect human rights and fundamental freedoms;

Whereas the signatory countries have pledged themselves to "fulfill in good faith their obligations under international law";

Whereas the signatory countries to the Final Act have declared their responsibility to "deal in a positive and humanitarian spirit with applications of persons who wish to be reunited with members of their family, with special attention being given to requests of an urgent character such as requests submitted by persons who are ill and old";

Whereas the Concluding Document of the Madrid meeting of the Conference on Security and Cooperation in Europe provides for the signatories to "favorably deal with" and "decide upon" applications for family reunification and to decide on such applications "within six months";

Whereas the Universal Declaration of Human Rights guarantees to all the rights of freedom of thought, conscience, religion, opinion, and expression;

Whereas the Declaration also affirms that "the family is the natural and fundamental group unit in society";

Whereas the International Covenant on Civil and Political Rights guarantees that "everyone shall be free to leave any country, including his own";

Whereas the Soviet Union signed the Helsinki Final Act and the Concluding Document of the Madrid Conference, is obligated to respect the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights;

Whereas Naum Meiman and Inna Kitrosskaya-Meiman have applied for emigration visas for reasons of conscience and family reunification;

Whereas Dr. Meiman's application for emigration has been pending since 1974 and Mrs. Kitrosskaya-Meiman's application has been pending since 1979;

Whereas Dr. Meiman and Mrs Kitrosskaya-Meiman seek to join their daughter, Mrs. Olga Plam, who currently resides in Boulder, Colorado;

Whereas both Dr. Meiman and his wife have been subjected to continual harassment and are in urgent need of medical treatment unavailable in the Soviet Union;

Whereas the departure of Dr. Meiman with his background in advanced science and mathematics would pose no threat to Soviet national security, a fact confirmed by the signed statement of I.V. Chuvilo, director of the Soviet Institute of Theoretical and Experimental Physics, who stated that none of Dr. Meiman's work has been classified; and

Whereas the Soviet Union has shown little willingness to abide by its international obligations to expedite emigration cases which would promote family reunification and the resolution of the urgent medical cases of Dr. Meiman and his wife: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that in view of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, the Concluding Document of the Madrid meeting of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, the Soviet Union—

(1) should immediately approve the exit visa applications of Dr. Naum Meiman and his wife, Mrs. Inna Kitrosskaya-Meiman; and

(2) should, upon approval of their visas, arrange for Dr. Meiman and his wife the appropriate means to facilitate their trip to the country of their choice.

SEC. 2. The Congress urges the President—

(1) to protest the Soviet Government's refusal to consider expeditiously the exit visa applications of Dr. Meiman and his wife;

(2) to call upon all other signatory nations of the Helsinki Final Act of the Conference on Security and Cooperation in Europe to join in such protests; and

(3) to instruct the United States delegation to the meeting of experts on human contacts organized under the auspices of the Conference on Security and Cooperation in Europe in Bern, Switzerland to pursue vigorously the case of Dr. Meiman and his wife.

SEC. 3. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President with the request that he further transmit a copy of such resolution to the Soviet Ambassador to the United States and to the Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics.

● Mr. HART. Mr. President, once again, on behalf of our good friends Naum and Inna Meiman, my colleagues and I are calling on the Soviet Union to adhere to the principles set forth in the conventions on human and political rights to which that nation is a signatory. Today, however, time has become a crucial factor.

Dr. Naum Meiman and his wife, Inna, have been trying for years to emigrate from the Soviet Union and join their daughter, Olga Plam, who is a constituent of mine in Colorado. Inna Meiman is now critically ill from cancer. But it has become clear that new technology exists in the West which would offer Inna Meiman some hope in curing her cancer. Dr. Douglas Zipes, of the University of Indiana, has offered to treat Inna Meiman and to cover the costs of her travel and medical care.

Yet Inna Meiman is still denied an exist visa. It is beyond my understanding what the Soviet authorities have to gain by continuing to deny exit visas to the Meimans. Last year, I raised the Meimans' case directly with then-Foreign Minister Andrei Gromyko and other Soviet officials when I visited Moscow. My colleagues and I have pursued the case with Ambassador Dobrynin and have written to General Secretary Mikhail Gorbachev asking for his help and intervention.

I am pleased to join colleagues from around the country in offering a concurrent resolution to express the sense of the Congress that the Soviet authorities provide for the release and safe passage of Naum and Inna Meiman. I hope that our colleagues will join with us in using this and every other available opportunity and channel of communication to raise the Meimans' case with Soviet officials and diplomats before it is too late.

Mr. President, when I was in the Soviet Union last year, I visited the war memorials and cemeteries which stand as grim reminders of the price paid by the Soviet Union in World War II. I visited the museums and in-

stitutions which are the sources of so many of the cultural gifts the Russian people have given the world. Yet the single most emotional and moving experience of my visit was the evening I spent with Naum and Inna Meiman—living examples of the triumph of the human spirit. I will never forget the evening I spent with the Meimans, and I hope they will never forget that they are not alone. The Meimans and other Soviet Jews who wish to emigrate have friends and supporters around the world.

Forty years after the holocaust, 40 years after Leningrad, the world is both a vastly different place and a not-so-different place. A generation which knew the horrors of World War II has been succeeded by a generation which must never know the horrors of nuclear war. Acting in good faith, representatives of the United States and the Soviet Union can take tangible steps to lessen the threat of nuclear war. Permission to let Naum and Inna Meiman—brave people who are threats to no one—leave the Soviet Union would be a small but tangible demonstration of Soviet good faith.

Last week, I joined several of my Senate colleagues in calling on the Reagan administration to consider steps to restrict nuclear testing and to demonstrate leadership in accepting the challenge of negotiations devoted to completing a nuclear test ban. Today, I call on the General Secretary of the Soviet Union to demonstrate leadership and accept a challenge of humanitarianism and hope. I join Dr. Zipes in sending this message: Inna Meiman is dying of cancer. Please expedite visas for Naum and Inna Meiman before it is too late. The world watches and awaits your humane response.●

SENATE CONCURRENT RESOLUTION 132—ESTABLISHING A TEMPORARY JOINT COMMITTEE ON THE BUDGET

Mr. COCHRAN submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 132

Resolved by the Senate (the House of Representatives concurring),

SECTION. 1. TEMPORARY JOINT COMMITTEE ON THE BUDGET.

(a) ESTABLISHMENT.—There is established a Temporary Joint Committee on the Budget (hereafter in this concurrent resolution referred to as the "Joint Committee").

(b) COMPOSITION.—

(1) The Joint Committee shall be composed of the entire membership of the Committee on the Budget of the House of Representatives and the Committee on the Budget of the Senate.

(2) The chairman of the Committee on the Budget of the House of Representatives and the chairman of the Committee on the Budget of the Senate shall serve as cochairmen of the Joint Committee.

(3) A majority vote of the members of the Joint Committee from each House shall be necessary for the Joint Committee to act.

(4) Vacancies in the membership of the Joint Committee shall not affect the power of the ramaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original selection.

(5)(A) There is established within the Joint Committee an executive committee, to be composed of—

(i) 6 members of the Committee on the Budget of the House of Representatives designated by the chairman of such committee;

(ii) 5 members of the Committee on the Budget of the House of Representatives designated by the ranking minority member of such Committee;

(iii) 5 members of the Committee on the Budget of the Senate designated by the chairman of such Committee; and

(iv) 4 members of the Committee on the Budget of the Senate designated by the ranking minority member of such Committee.

(B) A majority of the members of the Executive Committee from each House shall be necessary for the executive committee to act.

(c) DUTIES.—Notwithstanding any other provision of law, or any provision of the Standing Rules of the Senate or the rules of the House of Representatives, the Joint Committee shall have the duty to report concurrent resolutions on the budget required to be reported under title III of the Congressional Budget and Impoundment Control Act of 1974. It shall do so only after considering the recommendations of the executive committee.

(d) CONCURRENT RESOLUTIONS REPORTED BY THE JOINT COMMITTEE.—Any concurrent resolution reported by the Joint Committee shall be reported to each House of the Congress at the same time, in the same form, and with the same contents.

(e) DUTIES OF THE EXISTING BUDGET COMMITTEES.—Except as provided in subsection (c), the Committees on the Budget of the House of Representatives and the Senate shall have the duties assigned to them by the Congressional Budget and Impoundment Control Act of 1974, by part C of the Balanced Budget and Emergency Deficit Control Act of 1985, and by the Standing Rules of the Senate and the Rules of the House of Representatives.

(f) HEARINGS AND TESTIMONY.—The Joint Committee and any subcommittee thereof is authorized to sit and act at such times and places within the United States (whether the Congress is in session, has recessed, or has adjourned) to hold such hearings, to require the attendance of such witnesses and the production of such books, papers, documents, or vouchers by subpoena or otherwise, and to take such testimony, as it deems advisable. A subpoena may be issued over the signatures of either of the co-chairmen of the Joint Committee, or a designee of either, and may be served by any person designated by the person signing it. An oath may be administered by either the co-chairmen of the Joint Committee, or a designee of either.

(g) STAFFING.—The staffs of the Committees on the Budget of the House of Representatives and the Senate shall serve as the staff of the Joint Committee.

(h) RECORDS.—The Joint Committee shall keep a complete record of all committee actions, including a record of the votes on any question on which a record vote is demanded.

(i) TREATMENT OF MEMBERSHIP UNDER SENATE RULES.—For purposes of paragraph 4 of rule XXV of the Standing Rules of the Senate, service of a Senator as a member of the Joint Committee, or as a co-chairman of the Joint Committee, shall not be taken into account.

(j) The Joint Committee shall cease to exist at the close of the second session of the 99th Congress.

(k) EXERCISE OF RULEMAKING POWER.—The provisions of this section are enacted—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

Mr. COCHRAN. Mr. President, today I am introducing legislation which I feel will assist the Congress in dealing with the budget mandates we face in a more expeditious and effective manner.

This is a concurrent resolution calling for the temporary establishment of a Joint Budget Committee. Congressman BOB MICHEL, the Republican leader in the House of Representatives has introduced identical legislation today in the House.

As we all know, congressional budget deadlines have been difficult to meet in the past, and may be even more difficult this year under the new Gramm-Rudman-Hollings timetables. We have already missed the April 15 deadline for completing action on a concurrent budget resolution for fiscal year 1987. Clearly, without joint congressional action, it may be impossible to meet other deadlines this year.

The Gramm-Rudman-Hollings law provides that, in the event that the reporting procedures now before the Supreme Court are invalidated, there will be established a "Joint Committee on Deficit Reduction," made up of the entire membership of the Budget Committees of the House of Representatives and the Senate. The purpose of this joint committee is to report and pass a joint resolution requiring the President's signature in order to implement any sequestration.

We believe that Congress should not wait until the Supreme Court rules in this case to establish such a Joint Budget Committee. The immediate establishment of a Joint Committee, and commencement of deliberations on a budget resolution for fiscal year 1987, would ensure the best and most efficient implementation of Gramm-Rudman-Hollings and the congressional budget process.

The temporary joint committee we are proposing would have the duty of

reporting a concurrent budget resolution for fiscal year 1987. It would be composed of the entire membership of the Budget Committees of both Houses. The existing Budget Committee Chairmen would serve as cochairmen of the new Joint Committee.

An executive committee made up of one-third of the membership of each Budget Committee would be established to facilitate the proceedings of the much larger joint committee. The executive committee would make recommendations to the full joint committee for its approval or modification.

Establishment of a Joint Budget Committee on a temporary basis would also provide a trial period for determining the feasibility of a permanent Joint Budget Committee, as well as other needed reforms of our budget process.

I hope my colleagues will be able to support this legislation, which I'm convinced, would allow a reasonable and more efficient alternative for achieving our budget goals.

AMENDMENTS SUBMITTED

FEDERAL FIRE PREVENTION AND CONTROL ACT AUTHORIZATION

GORTON AMENDMENT NO. 1793

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill S. 2180) to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974; as follows:

At the end of the bill, add the following:

SEC. 2. (a) The Congress finds—

(1) that various studies of governmental and non-governmental agencies indicate that daylight saving time over an expanded period would produce a significant energy savings in electrical power consumption;

(2) that daylight saving time may yield energy savings in other areas besides electrical power consumption;

(3) that daylight saving time over an expanded period could serve as an incentive for further energy conservation by individuals, companies, and the various governmental entities at all levels of government, and that such energy conservation efforts could lead to greatly expanded energy savings; and

(4) that the use of daylight saving time over an expanded period could have other beneficial effects on the public interest, including the reduction of crime, improved traffic safety, more daylight outdoor playtime for the children and youth of our Nation, greater utilization of parks and recreation areas, expanded economic opportunity through extension of daylight hours to peak shopping hours and through extension of domestic office hours to periods of greater overlap with the European Economic Community.

(b) Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) is amended by striking "last Sunday of April" and inserting in lieu thereof "first Sunday of April".

(c) Any law in effect on the date of the enactment of this Act—

(1) adopted pursuant to section 3(a)(2) of the Uniform Time Act of 1966 by a State with parts thereof in more than one time zone, or

(2) adopted pursuant to section 3(a)(1) of such Act by a State that lies entirely within one time zone,

shall be held and considered to remain in effect as the exercise by that State of the exemption permitted by such Act unless that State, by law, provides that such exemption shall not apply.

(d)(1) Notwithstanding any other law or any regulation issued under any such law, the Federal Communications Commission shall, consistent with any existing treaty or other agreement, make such adjustment by general rules, or by interim action pending such general rules, with respect to hours of operation of daytime standard amplitude modulation broadcast stations, as may be consistent with the public interest, including the public's interest in receiving interference-free service.

(2) Such general rules, or interim action, may include variances with respect to operating power and other technical operating characteristics.

(3) Subsequent to the adoption of such general rules, they may be varied with respect to particular stations and areas because of the exigencies in each case.

(e) This section shall take effect 60 days after the date of enactment of this Act, except that if such effective date occurs in any calendar year after March 1, this section shall take effect on the first day of the following calendar year.

COMPREHENSIVE CRIME CONTROL ACT AMENDMENTS

THURMOND (AND OTHERS) AMENDMENT NO. 1794

Mr. THURMOND (for himself, Mr. BIDEN, Mr. LAXALT, Mr. KENNEDY, Mr. HATCH, Mr. GRASSLEY, Mr. SPECTER, and Mr. EAST) proposed an amendment to the bill (S. 1236) to amend title 18 of the United States Code and other laws to make minor or technical amendments to provisions enacted by the Comprehensive Crime Control Act of 1984, and for other purposes; as follows:

On page 61, strike out lines 22 through 3 on page 62 and insert in lieu thereof the following:

(1) In subsection (a)(2) by—

(A) redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) amending subparagraph (C) to read as follows:

"(C) the sentence modification provisions set forth in sections 3563(c), 3564, 3573, 3582(c), and 3583(e) of title 18;"; and

(C) adding after subparagraph (C) the following new subparagraph:

"(D) the fine imposition. provision set forth in section 3572 of title 18:";

On page 62, strike out lines 13 through 16 and insert in lieu thereof the following:

(3) in subsection (b) by—

(A) inserting "(1)" after "(b)"; and

(B) designating the second sentence as paragraph (2) and inserting before the period in such paragraph (2) the following: "except that—

"(A) if the maximum term of the range is life imprisonment, the minimum shall not be less than 25 years imprisonment; or

"(B) if the maximum term of the range is one year or less, the maximum shall not exceed the minimum of that range by more than 50 per centum or 60 days, whichever is greater.";

On page 68, between lines 4 and 5, insert the following:

SEC. 16A. Section 213 of the Comprehensive Crime Control Act of 1984 is amended in section 3742 of title 18, United States Code—

(1) in subsections (a)(2), (b)(2), (d)(2), and (e)(1) by striking out "an incorrect" and inserting in lieu thereof "a clearly erroneous construction or"; and

(2) in subsection (e) by—

(A) striking out subparagraph (B) of paragraph (1) and inserting in lieu thereof the following:

"(B) designate the appropriate guideline category and remand the case for imposition of a sentence consistent with its decision;"; and

(B) striking out subparagraphs (A) and (B) of paragraph (2) and inserting in lieu thereof the following:

"(A) if it determines that the sentence is too high and the appeal has been filed under subsection (a), it shall set aside the sentence and remand the case for imposition of a sentence consistent with its decision;

"(B) if it determines that the sentences is too low and the appeal has been filed under subsection (b), it shall set aside the sentence and remand the case for imposition of a sentence consistent with its decision; or".

THURMOND AMENDMENT NO. 1795

Mr. THURMOND proposed an amendment to the bill S. 1236, supra; as follows:

On page 67, line 8, after "contract" insert ", subject to appropriations,".

NOTICE OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCLURE. Mr. President I would like to announce, for the information of the Senate and the public, that the Committee on Energy and Natural Resources will hold an oversight hearing on the implementation of the Public Utility Regulatory Policies Act of 1978. The hearing will focus on the growth of cogeneration and small power production since passage of the act, and on the need for any modifications to the act. Testimony will be received on the price paid by utilities for power from qualifying facilities, the effect of such purchases on the operation and reliability of utility systems, and the environmental impacts of construction and operation of qualifying hydroelectric facilities. The committee also invites testimony on other relevant issues.

The hearing will be held on June 3, 1986 beginning at 10 a.m. in room SD-366 in the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or to submit written statements should contact the Committee on Energy and Natural Resources, room SD-358 Dirksen Senate Office Building, Washington, DC, 20510. Witnesses may be placed on panels, and are requested to submit 150 copies of their testimony 24 hours in advance of the hearing.

For further information, please contact David Doane or Gerry Hardy at (202) 224-5304.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. WILSON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, April 17, 1986, in order to conduct a hearing on the issue of white-collar crime, specifically the E.F. Hutton matter.

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

COMMITTEE ON FINANCE

Mr. WILSON. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, April 17, 1986, until 4 p.m. in order to markup H.R. 3838, the tax reform bill.

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

COMMITTEE ON ARMED SERVICES

Mr. WILSON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 17, to receive testimony on the posture of the U.S. Air Force.

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

Mr. WILSON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, April 17, 1986, in closed executive session in order to conduct a hearing on special operations airlift forces.

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

ADDITIONAL STATEMENTS

UNITED STATES BUILDUP OF MAINLAND CHINA'S MILITARY MACHINE

● Mr. WALLOP. Mr. President, I wish to commend Senator GOLDWATER for two recent statements in the RECORD on the policy problems we face with the administration's decision to sell sophisticated arms to the People's Republic of China. (See the RECORD for March 18, 1986 and for April 19, 1986. Senator GOLDWATER has flagged this important problem for us and has been keeping a watchful eye on a development which should give us all pause.

Mr. President, I am concerned about the turn that our China policy is taking. There is a disturbing trend here and the congressional oversight functions are not being exercised. Before we know it, we will have a brandnew China policy with very little input from the full U.S. Senate or from the responsible Senate committees. The American public has the right to know that there is an apparent trend in our China policy which has not been explained to them. Its implications are far reaching and must be aired properly and not conducted sub rosa behind closed doors at the Pentagon and the State Department and presented to the U.S. Senate as a fait accompli.

Mr. President, last fall we had the United States-China Peaceful Uses Nuclear Cooperation Agreement, which slipped past with barely a ripple. That agreement failed to include sufficient safeguards on United States origin nuclear material to be sold to China despite the fact that the Chinese might be able to reprocess that material and use the resultant plutonium to make bombs and weapons and to enhance the capacity of its nuclear navy. The agreement was full of holes and side promises which failed to comply with the letter of the law and the relevant provisions of the Atomic Energy Act and later legislation governing the sale of U.S. nuclear material abroad. We were told that the agreement complied with the spirit of the law, if not the letter, and that this would suffice. That assumption has yet to be tested.

Mr. President, now we have two proposals for big ticket arms transfers to the People's Republic of China, one a giant avionics sale and the other a sale of advanced naval systems. These planes and naval systems are items which the mainland Chinese could use against Taiwan and we have not assured ourselves against that. Selling $500 million worth of upgraded F-8 jet fighters to mainland China has policy implications which must be examined, especially when it follows on the heels of $98 million worth of munition, artillery, plant, equipment, and technology sales to China.

Mr. President, now we read in the press that there will be transfers of sophisticated naval systems to mainland China. We also hear that the Koreans, Japanese, and the ASEAN nations, close allies of ours in Asia, are very worried indeed about the implications of these sales for mainland China's military buildup. And so is Taiwan, which would be the most likely victim of mainland Chinese aggression. The Taiwan issue burns under the surface of current arms transfers to mainland China. And the administration has not come to grips with it. What does leak out of the China policymaking establishment in the administration is that the President supports these big and potentially dangerous arms sales to mainland China but we are not told why nor does anyone ask where this might lead us.

Mr. President, I urge the Senate to focus on these arms transfers to mainland China so that we are not surprised by any fait accompli. We don't want to wake up one day to find that mainland China has the most powerful nuclear navy in the world, the best military-industrial complex and air fighting force in Asia (all built with our help and technology), and then has turned this against Taiwan or some other of our close Asian allies. I urge the responsible committees of the Senate to examine carefully the path we are on and to ask whether or not we should be headed in that direction.

Please keep in mind that we still have solemn obligations to join in the defense of Taiwan. Are we funding the future confrontation between our ally Taiwan and the People's Republic of China? Will Americans be asked to fight and die confronting sophisticated weapons of American design and manufacture? Surely not if we maintain collateral strength in the Republic of China, but also surely so if we do not.

For these reason, Mr. President, I ask that the following article by Martin Lasater of the Heritage Foundation be printed in the RECORD.

The article follows:

WANTED: A U.S. POLICY FOR SELLING ARMS TO CHINA

The United States and the People's Republic of China (PRC) appear to be ready to agree on a $500 million arms sale package that would upgrade significantly by the F-8 jet fighter recently developed by Beijing. This pending Foreign Military Sales (FMS) deal may include such advanced avionics as heads-up display targeting panels, navigational instruments, and weapons fire-control systems. Together, the avionics package will give the F-8 the ability to fight in all types of weather. Under the agreement, the advanced U.S. electronic equipment would be sold to the PRC and then integrated and put together in the Chinese fighters by American defense contractors under U.S. Air Force supervision. While there may be good reasons for this sale, it highlights the troubling fact that the U.S. seems to have no guidelines for arms transfers to Beijing. Troubling too is that policymakers seem to be ignoring how the transfers will affect the security of the Republic of China on Taiwan.

The pending avionics sale would come close on the heels of the first FMS transfer to China, a $98 million deal announced last September including plans for an artillery munitions factory and technical specifications for 155mm projectiles. The U.S. al-

ready has sold the PRC civilian versions of the Sikorsky Black Hawk helicopter, General Electric LM2500 gas turbine engines for warships, Raytheon DE1167 towed sonar, and Mk 46 Mod 2 torpedoes. Currently under discussion are sales of General Electric F404 jet engines, Light Airborne Multipurpose System (LAMPS) MK-I anti-submarine warfare equipment, Improved Hawk and Standard surface-to-air missiles, and E-2C Hawkeye airborne early warning aircraft.

Strong resistance to the avionics package has come from some within the Administration because the PRC has refused to give assurances that it would not resell the acquired technology to third countries. The main advocates of the avionics sale are Pentagon aides. They argue correctly that the U.S. must help upgrade the equipment of China's People's Liberation Army (PLA) because the gap between China's military capabilities and those of Moscow's Asia-based forces is widening rapidly in the Soviets' favor. Because of this strong feeling in the Pentagon, the U.S. has been taking the lead in arms sales to Beijing. The Chinese apparently are not making weapons transfers fundamental to Sino-American relations.

Thus far, Washington policymakers have not set clear limits on what can be sold to the PRC. As a result, rivalry inside the Pentagon between the Army, Navy, and Air Force over establishing links with the PLA is pushing the quality and quantity of U.S. arms sales to China ever higher. This overlooks key developments. Among them:

(1) China is distancing itself from the U.S. strategically while improving relations with the Soviet Union.

(2) U.S. arms sales to China are opposed by China's noncommunist neighbors such as Japan, South Korea, and the Association of Southeast Asian Nations (ASEAN). These countries fear that the weapons will be used to intimidate them rather than against the Soviet Union.

(3) The avionics sale would upset the delicate military balance in the Tawian Strait, which the U.S. is committed to preserve under the 1979 Taiwan Relations Act. Taiwan's defense depends solely on maintaining qualitative air superiority over the Strait. This would be threatened if China's F-8 fighters gain, as they would under the proposed sale, all-weather capability. Taipei has no modern all-weather fighters.

(4) The sale could threaten Taiwan's security in the long term. For one thing, it would give Beijing greater confidence that it could use military force to "resolve" the Taiwan issue. For another, it would weaken domestic investor confidence in Taiwan's future.

It is time for the Reagan Administration—or Congress—to set some sort of guidelines on arms transfers to the PRC. At the core of these guidelines must be the principle embodied by the Taiwan Relations Act: that the U.S. ensures that the Republic of China on Taiwan has the weapons to protect itself from military attack. This means that if the U.S. upgrades Beijing's offensive capabilities in a way posing a potential threat to Tawian, then Taipei's capabilities similarly must be upgraded. If the U.S. feels that because of China's confrontation with the USSR, it will be necessary to make the pending avionics deal, then Washington should also agree to sell Taipei a modern jet fighter such as the F-20 Tigershark or the F-16. Taipei has been trying to purchase such planes since 1978. Roughly half of Taiwan's fighter inventory are aging F-104's and early model F-5's slated for retirement.

Washington must define more clearly its arms sales policy towards the PRC; parameters, guidelines and ceilings must be set. In this, it would be appropriate for Congress to hold hearings. Without a clearer sense of direction coming from Washington, this issue could undermine the healthy consensus on U.S. China policy that the Administration has built.

MARTIN L. LASATER,
Director, Asian Studies Center.●

USTTA REAUTHORIZATION BILL

● Mr. PRESSLER. Mr. President, earlier this week I introduced S. 2307, a bill to reauthorize the U.S. Travel and Tourism Administration. Although a description of the bill and USTTA's functions appears on page S4291 of Tuesday's RECORD, the text of the bill was not printed. Because the text of the bill is both brief and informative, I ask that it be printed in the RECORD.

The bill follows:

S. 2307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds and declares that—

(1) the travel and tourism industry in the United States is vital to the economy of the Nation, and accounts for more than $240 billion in annual revenues, employs more than 5 million persons, and contributes to the international balance of payments by generating nearly $15 billion as an export; and

(2) the United States Travel and Tourism Administration serves a unique and vital role in the promotion of travel and tourism in the United States, by—

(A) coordinating travel and tourism activities of the Federal Government, State and local governments, and the private sector in order to optimize their contributions to economic prosperity, employment, and the international balance of payments;

(B) ensuring the compatibility of travel and tourism with other national interests, including historical and cultural preservation, energy development and conservation, environmental protection, and the judicious use of natural resources.

(C) eliminating unnecessary trade barriers to international operations of the United States travel and tourism industry;

(D) encouraging the free entry of individuals traveling to the United States in order to enhance international understanding and good will, consistent with immigration laws, laws protecting the public health, and laws governing the importation of goods into the United States;

(E) assisting in the collection, analysis, and dissemination of data which accurately measure the economic and social impacts of travel and tourism to and within the United States, in order to maximize the efficacy of planning in, and cooperative activities between, the public and private sectors; and

(F) harmonizing, to the maximum extent possible, all Federal activities in support of travel and tourism with the needs of the general public, the States, territories, local governments, and the travel and tourism industry, and providing leadership in the areas of travel, tourism, and national heritage preservation within the United States.

(b) It is therefore the purpose of this Act to provide authorization of appropriations for the United States Travel and Tourism Administration, in order that the Administration may continue its activities to promote travel and tourism in and to the United States.

SEC. 2. Section 304 of the International Travel Act of 1961 (22 U.S.C. 2126) is amended by inserting immediately after "1982" the following: ", not to exceed $13,000,000 for the fiscal year ending September 30, 1987, not to exceed $14,000,000 for the fiscal year ending September 30, 1988, and not to exceed $15,000,000 for the fiscal year ending September 30, 1989".●

THE LIABILITY INSURANCE CRISIS

● Mr. McCONNELL. Mr. President, the Kentucky Derby is a grand old event dear to the hearts of people across the United States as well as natives of Kentucky. This year the Kentucky Derby Festival, which celebrates this event in Louisville, found its liability insurance yanked away. The director of the festival said, "We had a good claims record, but we were just a victim of what's happening everywhere."

However, at the 11th hour, the festival's long-time insurer reconsidered and agreed to provide coverage for the festival once again. But what will happen next year is anybody's guess.

Mr. President, the problems of the Kentucky Derby Festival are not unique. Festivals and similar special events across the country are scrambling to find insurers. Some are running "bare," that is, without any insurance, or are facing premiums which have jumped up by as much as 1,000 percent in some cases. This year, the lowest bid to provide insurance for Fiesta San Antonio was $85,000. Some festivals even face the prospect of cancellation. A single large civil award could bankrupt a festival.

Another difficulty festival organizers face is finding insurance for their officers and directors. Such coverage is disappearing and people are becoming reluctant to volunteer for positions on civic boards.

These problems are well presented in an article in the publication Business First of Louisville for the week of March 31 through April 6. The article, titled "Kentucky Derby Festival Dodges Bullet," provides the viewpoints of festival officials and insurance industry representatives on this situation.

Mr. President, an article in another publication reminds us that one private civil lawsuit was filed for every 15 Americans last year. Professionals such as pharmicists are feeling the bite of increasing liability rates and even cancellations of coverage despite their excellent insurance history.

People are pointing fingers of blame at excessive litigation, exorbitant judgments against too many individuals and mismanagement by insurance companies. The Small Business Legis-

lative Council has made liability insurance its top priority. Members of that group recently told a congressional subcommittee, "We believe tort reform is necessary. The size of awards, the contingency fee arrangement, the methodology of class action suits, and probably most important, the causes of action available to plaintiffs, all add to the problem."

This situation is described in the March 1986 issue of NARD Journal, a magazine for independent pharmicists. The article is titled, "The crisis in liability insurance." It helps illustrate the reforms needed in our tort system, reforms which would bring relief to the problems Americans are facing in liability insurance.

These articles explain some of the problems I am attempting to solve in Senate bill 2046, the Litigation Abuse Reform Act of 1986, which I recently introduced. The bill is aimed at reforming our tort system, which directly affects liability insurance. The bill also seeks to bring damage awards back to the point of reason. As the first article points out, a single large award against a festival could wipe out the event forever.

Therefore, Mr. President, I ask that these articles be printed in the RECORD.

The articles follows.

KENTUCKY DERBY FESTIVAL DODGES BULLET

(By Connie Dorval)

The good news: The Kentucky Derby Festival got 11th-hour liability insurance, so the show will go on.

The bad news: Its future hangs by a thread that insurers could yank, unraveling Louisville's popular festival and other special events across the country.

"What happens next year depends on what happens in the insurance industry," said Dan Mangeot, executive director of the Kentucky Derby Festival.

And it's anybody's guess what will happen in that volatile marketplace.

The rug was pulled out from under the Festival earlier this year when its insurer for 25 years canceled coverage. Louisville insurance brokers spent months scouring the country with no success looking for companies that would write the special-events coverage.

Then the Festival's long-time insurer had a change of heart and agreed to underwrite the events—this year.

"We had a good claims record, but we were just a victim of what's happening everywhere," Mangeot said. Although he is optimistic that the insurance will be renewed next year, he conceded that there are no guarantees.

Festivals across the country, unable to get liability protection, are running "bare"—without coverage—or are canceling their programs altogether. Skyrocketing rates—which have jumped as much as 1,000 percent—have eaten away at already-strapped budgets.

Also difficult is procuring insurance for officers and directors of special events, coverage that protects them from suits against their organizations. That coverage is rapidly disappearing, as underwriters refuse to renew policies or write new ones. Board members, understandably reluctant to bear the risks themselves, are forsaking corporate and civic rosters.

"The picture is pretty bleak," said Herb Melleny, executive vice president and managing director of the International Festivals association in St. Petersburg, Fla.

"Rates have absolutely gone out of sight," he said, and that puts another heavy burden on civic events whose budgets have already been trimmed. Insurance premiums have increased from 50 percent to 1,000 percent, he added.

At least one fair in Florida couldn't afford insurance this year and was canceled, and festivals in many other states have done the same, Melleny said.

Mangeot said the Derby Festival's premium this year is "nowhere near what we thought it would be." He expects it to be only about 30 percent higher than last year's—far less than the 500 percent to 600 percent increase he had been told to expect.

Mangeot refused to disclose the festival's premium.

But giant increases have become usual, said Melleny, who gave Fiesta San Antonio as an example. Last month, that festival's lowest bid was $85,000. "Events are having to look to corporate sponsors—any money, in fact, that they can beg, borrow or steal."

Liability affects every aspect of an event, he said, pointing to items such as the Cadillac Sevilles lent as official Derby Festival cars.

"Something has to happen," Melleny said, "the pendulum has to swing the other way if civic events are to survive."

What will happen if the Kentucky Derby Festival can't get insurance for next year?

Mangeot said that it may be possible to get coverage for certain events only, which would mean that some activities would run "bare" or be canceled.

Another lurking possibility is losing all insurance coverage—and that could halt all festivities.

A single large award would bankrupt the festival, said Mangeot. "We're a nonprofit organization and raise our own money." And without general liability insurance, he added, the festival's directors could be sued for any damages arising out of festival events.

The 62-member festival board has directors and officers (D and O) liability coverage through this year that protects them, but Mangeot said he doesn't know if the policy will be renewed next year.

Should both the festival and its directors fail to get insurance, it could signal the demise of the entire Kentucky Derby Festival.

The International Festivals Association, which has about 200 members in the United States, Canada, Australia and England, recently polled members about the liability problem. "All of them say D and O coverage is a problem. Nobody wants to serve without it," said Melleny.

But D and O coverage is scarce, says C.A. Lyles, director of excess and surplus lines at Alexander & Alexander of Kentucky Inc., which writes coverage for the Derby Festival.

Only about a dozen companies write D and O now, he said, compared with about three dozen a year ago. "Two-thirds of them just stopped writing it." Those who remain are so deluged with applications that "anyone with the slightest risk just won't get coverage."

"A director simply shouldn't serve on a board without D and O insurance," said Bill Pryor, vice president of marketing for K&K Insurance in Fort Wayne, Ind.

K&K, a Lloyd's of London correspondent that writes only special-events coverage, declined to insure the Kentucky Derby Festival or Churchill Downs.

"Frankly, underwriters are only interested in the very best risks. Someone who has had an unfortunate loss history won't get insurance," he said:

Underwriters look at the size of a group's losses as well as their frequency. In evaluating the risk, Pryor said, the underwriter throws out the largest loss—"shock loss"—in the last three years. If the loss history has been "clean" for two years, the underwriter is willing to discount the shock loss.

Underwriters look for a loss ratio of under 75 percent, he said, excluding the shock loss. If, for every premium dollar, more than 75 cents is paid out, the loss is considered too high.

Still, there are ways to improve chances of getting liability coverage, said Robert Collins, vice president of Johnson & Higgins of Kentucky Inc.

Groups can demonstrate improved controls to underwriters by identifying where losses have come from, making changes to prevent similar losses, and closely monitoring those changes to ensure against future losses.

"The problem with something like the Kentucky Derby Festival is that it isn't held at the Convention Center. It's held all over town," he said, noting that that makes control far more difficult. "It's going to be tough, real tough," Collins said.

"We go out of our way to make things safe," Mangeot said. "In a way, it's a good thing, because we're all becoming better risk managers. We've always been careful, but now we're even more careful."

Pryor said the insurance industry is cyclical, and he predicts the liability crunch will ease. However, he cautioned that insurance is a lot like mortgage rates.

"Mortgage rates are good now, a whole lot better than they were two years ago. But we'll never see 3½ percent interest rates like our parents did."

THE CRISIS IN LIABILITY INSURANCE

Physicians in some areas of the country are refusing to deliver babies. The reason? They can't get liability insurance. In New York state, a small town that has never been sued had its insurance cancelled. Why? Statistics convinced the insurance company municipalities are bad risks. The town found a new policy—at a 400 percent increase. The Southern California Rapid Transit District had no accidents last year, yet its insurance premium leaped from $67,000 to $3.2 million—a 4,700 percent increase in just one year.

CLOSED DUE TO NO INSURANCE

The United States faces a crisis that is having a devastating impact on businesses and individuals alike. Businesses both large and small, state and local governments, nonprofit organizations, professionals, and others are experiencing skyrocketing liability insurance rates or outright cancellations of coverage even for those with excellent insurance records.

The impact is widespread.

Although the federal government is largely self-insured, the National Park Service has closed down nearly a quarter of Yellowstone Park fearing that people will be mauled by bears. In Denver, sledding has been banned in city parks because the city

cannot obtain liability insurance. Many municipalities are considering cancelling fireworks demonstrations this Fourth of July because liability insurance costs have become prohibitive.

Professionals like pharmacists are also feeling the crunch of increased professional liability rates and even cancellations of coverage. All this comes in spite of the fact that pharmacists overall have an excellent insurance history. The situation is worse for other professionals, notably physicians, who may spend weeks searching for insurance to cover them for only the next few months or pay astronomical premiums for limited protection. Retail pharmacists also face similar problems in obtaining commercial liability insurance for their stores.

The liability insurance crisis is even affecting some insurance agents who find it difficult to obtain "errors and omissions" coverage for their work.

ECONOMIC THREAT

As with most hotly political issues, the finger of blame points in many directions. But the key causes boil down to too much litigation and excessive judgments against too many individuals, and mismanagement by insurance companies.

The crisis has drawn the attention of the House Energy and Commerce Committee's Subcommittee on Commerce, Transportation, and Tourism, chaired by Rep. James Florio (D-NJ), as well as numerous groups representing a broad spectrum of businesses and professionals.

"Insurance is a cost of doing business," the Small Business Legislative Council testified in a recent hearing held by the Commerce and Transportation Subcommittee. "When the cost of insurance doubles, triples, or quadruples, it takes a substantial bite out of the thin layer of income we call profit." The testimony by SBLC, of which NARD is an active member, noted that liability insurance is rapidly rising to the top of the list as a concern for all small firms.

"Premiums are increasing at exponential rates," SBLC testified. "Fifty, 70, and 150 percent increases are not unusual. Of greater concern, many firms are electing to go 'bare' and forgo any coverage. It is difficult to guess how long such a strategy will work."

In December, the SBLC and the Greater Washington Society of Association Executives held a meeting to discuss the issue with legal experts. The meeting underscores the fact that, when an issue touches all trade associations, they turn to the SBLC to help solve the problem. Member associations of the SBLC have contributed data on how the insurance crisis is affecting their respective industries.

"We believe tort reform is necessary," the SBLC told the subcommittee. "The size of the awards, the contingency fee arrangement, the methodology of class action suits, and probably most important, the causes of action available to plaintiffs, all add to the problem. A plaintiff can sue just about anybody remotely involved in a 'negligence' situation in search of a deep pocket."

The SBLC testimony acknowledged that "there are plenty of examples of wrongs made right only because of the system we have in place," but stressed that "the process has outpaced the 'economics' of justice. Society has to balance out individual protection against the need for a working economy." In its recent annual meeting, SBLC made liability insurance its top priority.

DEEP POCKETS

"The tort system is not a comprehensive social insurance plan." said Rep. John Porter (R-IL), testifying before Florio's subcommittee. "Not all wrongs can be righted through the tort system, and certainly not by dragging 'deep pocket' defendants with minimal fault into suits in hopes of large settlements." Porter, who was a key NARD ally in the recent Medicaid earned discounts fight, called for a cap on awards for noneconomic losses such as pain and suffering.

"Without a cap," said Porter, "and without a reasonable relationship between culpability and financial liability, we will soon be living in a world without insurance and full of bankruptcy and taxpayer revolts."

Porter, who is on the House appropriations subcommittee that provides funding for the Department of Health and Human Services, told the subcommittee that "We in Congress are being sought out at every turn by people at home who are shocked and bewildered by the sudden high cost or complete lack of liability coverage. This crisis touches every business, every professional person, every local government official, every consumer, and every taxpayer."

He noted that some small businesses face the Catch-22 of being required by law to carry insurance to operate and yet are unable to afford it.

Excessive litigation isn't the only source of the problem; the insurance industry is also being held accountable.

"We feel the insurance industry has played a role in the current crisis as well," SBLC testified. "Much of our concern is rooted in the belief that the insurance industry might have taken its eye off the ball—the *insurance* business. Mergers, acquisitions, and investments have stretched some companies further than they would like to admit. These problems, coupled with an overreaction to isolated incidents, have pushed premiums to their current level. We do not believe our claims record justifies the current premiums."

HEALTHY COMPETITION

In a recent statement, Senate Small Business Committee member Jim Sasser (D-TN) said that 10 percent of Tennessee businesses responding to a recent survey said they were closing their doors as a result of the liability insurance crisis. Some 50 percent of Sasser's survey respondents said the federal government should undertake "an immediate investigation of increases in commercial liability insurance to determine whether increases in rates have violated federal antitrust laws."

In 1945 Congress passed an amendment that exempted insurance companies from certain antitrust laws. In part, the exemption allows them to share claims data that may be used appropriately to help them determine insurance rates. But some in Congress believe these antitrust exemptions have allowed the insurance industry to operate without the same kind of competitive pressure that keeps other industries healthy.

"It may well be that we will have to reexamine many of the antitrust exemptions currently allowed in the property and casualty insurance industry," said Sasser.

COVERING BAD BETS

The insurance industry counters that part of the large rate increases they are passing along now are the result of strong competition and a bad bet on their part. They had expected that investments they made using insurance premiums during six years of high interest rates would allow them to lower rates to compete for policyholders. But the companies say they underpriced their policies, and now must make up for their losses by raising rates.

Harleyville Mutual Insurance Company President Bradford Mitchell, testifying before Senator John Danforth's (R-MO) Committee on Commerce, Science, and Transportation, argued that net operating losses in the insurance business require rate increases and pointed to abuses of the tort system as the root of the problem. He echoed his industry's assertion that its financial problems are in part caused by "a fiercely competitive marketplace, contrary to our critics who claim there is no competition in the insurance industry."

Mitchell testified that last year there was one private civil lawsuit filed for every 15 Americans, and that inconsistencies in court decisions had destroyed the insurance industry's faith in the legal process. He also criticized current attempts to change tax laws that allow insurance companies to avoid paying taxes on revenues placed into reserve pools.

Trial lawyers, criticized for their role in the tort side of the crisis, in turn accuse the insurance industry of trying to gouge the public with big rate increases and compel legislators to pass laws beneficial to the insurance companies.

SEEKING SOLUTIONS

Senator Mitch McConnell (R-KY) has introduced legislation that, among other provisions, restricts damages that may be awarded in federal courts, requires periodic payments of awards of more than $100,000, and clarifies the standard used for the award of punitive damages.

McConnell, a former Judiciary Committee counsel, Department of Justice assistant attorney general, and county judge, noted that "we are all suffering from a progressively debilitating disease, the disease of hyperlexis—too much litigation. The result of all this litigation is predictable enough: higher prices for insurance, for goods and services, for medical care, and just about everything imaginable."

McConnell described cases where remotely involved individuals were forced to pay legal settlements, and where companies were held liable for unreasonable and unforseeable accidents. Corning Glass, for example, was forced to pay a man injured by a shard of glass $804,892 because a dish broke, said McConnell because the company failed to warn the owner that dishes might fall and shatter if stacked five deep with their lids inverted.

LIMITS ON LIABILITY

The legislation introduced by McConnell, the Litigation Abuse Reform Act of 1986 (S. 2046), is designed to open the debate on tort reform, he says. "The bill seeks to impose rational restrictions on the award of damages by federal courts," says McConnell, "and to impart a significant degree of predictability to the potential liability a defendant faces."

The legislation would accomplish this by capping pain and suffering awards at $100,000. Actual damages are not limited by legislation, but damages in excess of $100,000 would be paid on a periodic schedule determined by the court. The bill would also eliminate the "collateral source rule," which requires that damage awards be reduced by the amount of any other payments, such as insurance or workers compensation.

The legislation would also clarify the standard used for the award of punitive damages. "Punitive damages were never intended to compensate the plaintiff," said McConnell, "and their effect will be just as great if paid to the court, while removing the incentive for lawyers to pursue large punitive awards."

Two other important provisions of the legislation would limit the amount of contingency fees an attorney may obtain and create sanctions against lawyers who initiate a civil action either without a reasonable belief that there is good grounds for recovery or solely in anticipation of a monetary settlement. "This is perhaps the most egregious abuse of the civil justice system," said McConnell.

Other legislative remedies being discussed include establishing a federal presence in insurance regulation, proscribing mid-term cancellations of coverage except for good cause, determining what constitutes a reasonable limit on total awards for a single occurrence, and specifying that an insuror's total liability cannot extend beyond the limits of coverage for a particular occurrence.

Additional legislation addressing reforms in product liability insurance, including federal involvement, has been introduced by Senator Danforth, Christopher Dodd (D-CT), Bob Kasten (R-WI), and others. Enormous product liability awards are considered an important part of the larger crisis.

The SBLC's House testimony noted that most small business owners shudder at the thought of more federal regulation, and that the tort system and insurance regulation have traditionally been areas of state activity. As such, it pointed to action on the state level to address the crisis. SBLC has urged the president and Congress to establish a commission to develop recommendations for action.

In the meantime, rising liability insurance costs and cancelled or limited coverage will be borne on the shoulders of businesses and consumers in the form of higher prices, the chilling of the entrepreneurial spirit—and even the elimination of certain activities, goods, and services we all take for granted, but that are now too risky to provide.●

1986 CONGRESSIONAL CALL TO CONSCIENCE

Mr. LAUTENBERG. Mr. President, I am pleased to join my colleagues in the 1986 Congressional Call to Conscience. I commend my colleague, Senator MITCHELL, for his leadership role in chairing this year's Congressional Call to Conscience.

Edmund Burke, the 18th century British statesman and philosopher once said, "The only thing necessary for the triumph of evil is for good men to do nothing."

We in Congress have a special obligation to act on the truth of Burke's words and speak out on behalf of the plight of Soviet Jews. Because the Soviet treatment of its Jewish population is evil. And it will not change unless we continue to insist that it must.

We must commit ourselves to continue this fight until every Soviet Jew who wants to leave has gone. We must make it a priority. Because as long as human rights are denied to the citizens of other countries, our freedom is in jeopardy.

By now many are aware of the grim fate the Soviet Union has mapped out for Soviet Jews. The plight of one of my adopted refuseniks, Yuli Edelshtein, is an all too familiar tale of persecution and harassment.

Yuli, as a 27-year-old resident of Moscow, was denied a visa because his father allegedly had access to secret materials. But Yuli had not seen his father in 20 years. To the Soviets, no pretext is too flimsy to be used to deny Jewish emigration.

After his application was denied, the KGB began to harass him, forcing him to leave his job as an English teacher. Yuli refused to be cowed by the KGB. He became an observant Jew, and began to teach Hebrew. The KGB could not tolerate Yuli's Jewish activism. He was convicted on trumped-up drug charges, and sentenced to 3 years at an especially harsh labor camp. Yuli's wife, Tatyana, reports that he is beaten continually, and prohibited from returning to his room to rest after work.

His real crime? The desire to live as a Jew, and to pass his heritage on to others.

Yuli Edelshtein is not an isolated case. My two other adopted refusenik families, the Ostrirovs and the Khassins, have also continually been denied permission to emigrate. Unfortunately, their plights are typical of countless thousands of other Soviet Jews. Forced to remain in the Soviet Union against their will, they cannot celebrate the holidays central to their faith without harassment. They cannot study Hebrew, learn Jewish history, or pass their heritage on to their children without great risk. The struggle to maintain any semblance of Jewish life requires extraordinary courage. And because Jews are prevented from passing along their Jewish traditions to their children, Judiasm risks extinction in the Soviet Union.

Even for nonobservant Jews, hostility and harassment are the daily fare. Many are arrested or imprisoned simply for trying to emigrate. Some lose their jobs, and are then arrested for not working. The doors of higher education are increasingly closed to Soviet Jews. And a quota system has resulted in a dwindling number of Jewish professionals.

But in this grim scenario, there is hope. We can make a difference. We already have. On February 11, Anatoly Shcharansky walked to freedom across the snowy Glienicke Bridge. The efforts of those around the world are partly responsible for his freedom.

But there is so much more to do. So many left to fight for. For Soviet Jews, there is nowhere to turn but to us.

Shcharansky left the Soviet Union not merely alive but free. His spirit was always free, even as the Soviets physically enslaved him. His heroic triumph in the face of incredible adversity should make us proud. It can inspire us to work even harder for those that remain.

This week, I introduced a bill to grant a Congressional Gold Medal to Anatoly "Natan" Shcharansky and his wife, Avital, for their courage and dedication to the cause of human rights. For Anatoly, because he acted to further the cause of Soviet Jews at great risk to himself. And for Avital, because of her tireless efforts to free her husband, and to elevate the cause of Soviet Jewry and human rights to a global concern.

Shcharansky is unusual. He will spend this year in Jerusalem without bitterness. Others may not be so lucky. For every Shcharansky who escapes, a Sakharov, an Edelshstein, an Orlov, remain. And there are thousands more whose names we do not know. Their names form a litany of sorrow. They are a testament to wasted lives, stolen dreams of freedom.

Those brave refuseniks and dissidents—condemned to live at the edge of society, fated to undergo ordeals we can barely imagine, rely on us. They rely on us to be their voice, to plead their case. To remember them. So that some day, some year, they can say, this year in Jerusalem, and really mean it.

Without our support, without our solidarity, that would never come to pass. They could not carry on. They would have no hope. As Elie Wiesel has written, What hurts the victim most is not the cruelty of the oppressor but the silence of the bystander.

We cannot be silent bystanders in this fight for basic human rights. We must speak out at every opportunity, protest the status quo in every forum. We must join Shcharansky, who, on his arrival at the Israeli airport, pledged "I am not going to forget those who I left in the camps, in the prisons, * * * who still continue their struggle for their right to emigrate, for their human rights.

We must raise our voices against Soviet tyranny along with Shcharansky. We must make it clear that continuing Soviet abuse will be met by a continuing outcry in the West.

The pressure must continue. Because Shcharansky's release is only that. The release of one heroic Jew who became more trouble than he was worth to the Soviets.

Some suggest that Shcharansky's release signals a relaxation of the Soviet policy on Jewish emigration. But I'll believe the Soviets have changed their emigration policy when they do. So far, the numbers speak for themselves. Only 1,140 Jews left the Soviet Union

in 1985, compared to an average of 4,250 a month in 1979. And only 79 left in January.

But we can learn something from Shcharansky's release.

We pulled out all the stops for him. The efforts on his behalf were unprecedented in scope and intensity. No stone was left unturned, no argument unuttered. The fuss generated on his behalf indicated to the Soviets he was important to the West. And when they wanted to make a gesture, they chose him.

Shcharansky's case teaches us that we can make a difference. Our vigorous refusal to accept the situation as it is, can pay off. Those released are often people whose cases have been championed most diligently in the West.

The Soviet Union hears us. Would that we could generate an equal effort for every Soviet Jew who yearns to be free. We must keep the plight of Soviet Jewry on the superpower agenda for the next summit. Because as the summit gets closer, other issues may crowd out the human rights agenda. We must continue to make our voices heard in this vein. Early. And often.

I and 54 of my colleagues wrote to the President asking him to continue to put a high priority on raising Soviet Jewry at the summit. We have asked him to raise this issue not only at the next summit, but at the Helsinki Conference on Freedom of Human Contact this April, at the Helsinki Review Conference next November, and in every private forum possible.

We have a responsibility to ourselves and to this country to defy Edmund Burke's prophecy. Good people will not do nothing. We will not let evil triumph. We will overcome it together. For the Nudels, the Orlovs, and the Edelshsteins. For the others, less well known, who are counting on our efforts to bring them to freedom. And for ourselves.

I look forward to the time when we can do nothing, secure in the knowledge that freedom will prevail for Soviet Jews. But until that time, we will return, year after year, to plead the case. We can do no less.

I ask that a copy of the letter to the President be printed in the RECORD.

The letter follows:

U.S. SENATE,
Washington, DC, March 4, 1986.

President RONALD REAGAN,
The White House
Washington, DC.

DEAR MR. PRESIDENT: We applaud your efforts on behalf of Soviet Jewry, and are especially pleased at your success in helping to free Anatoly Shcharansky. We are writing to urge you to continue your efforts to bring freedom to the long suffering Jews of the Soviet Union.

With the Geneva summit behind us, it is not clear that any real change has occurred in the Soviet Union's emigration policy. Despite the release of a few prominent refuseniks, the hopes and prayers of people of good will everywhere for a reversal in that policy have thus far been unfulfilled.

In 1985, only 1,140 Jews were allowed to emigrate, while thousands still wait for permission. Only 79 Jews were allowed to leave the Soviet Union in January, compared to an average of 4,250 a month in 1979.

Forced to remain in the Soviet Union against their will, Soviet Jews face a grim fate. Many lose their jobs and are harassed or imprisoned simply as a result of attempting to leave. The doors of higher education are closed to many of them. Anti-semitism is part of the military indoctrination program in the Soviet Union, and anti-semitic programs have been shown on prime-time television.

Beatings, arrests, and jailings of Jews for attempting to practice their religion continue unabated. Persecution of unofficial Hebrew teachers continues. For example, on January 17, 1986, Leonid and Golda Rochlin of Leningrad, both Jewish teachers, were threatened by the KGB. On that evening, when seven of their pupils gathered to celebrate the Sabbath, the KGB interrupted their meal and two of the young men were beaten by the police. One woman was held overnight in prison. Only one of these seven could be called an activist. This incident, by no means atypical, illustrates that the struggle to maintain any semblance of Jewish social, religious or cultural life in the Soviet Union requires extraordinary courage.

We urge you to continue your efforts to seek freedom for all refuseniks and prisoners of conscience who desire to emigrate, and to seek freedom of cultural and religious expression for Jews and others who remain. We ask you to keep pursuing this goal in every international and private forum possible, including the Helsinki Conference on Freedom of Human Contacts, beginning April 15, the Helsinki Review Conference next November in Vienna, and of course, your next meeting with General Secretary Mikhail Gorbachev.

We believe it is critical that the United States, which has long cherished liberty, continue to reach out to those who remain enslaved.

Sincerely,

FRANK LAUTENBERG,
(With 54 Cosponsoring Senators on this letter)

ANDREI SAKHAROV HONOR AND FREEDOM DAY

● Mr. WALLOP. Mr. President, last night, I introduced legislation to proclaim May 21, 1986, as Andrei Sakharov Honor and Freedom Day. My resolution is Senate Joint Resolution 326. Its intent is to bring to the attention of the entire world the plight of Dr. Sakharov and, more importantly, to take meaningful steps which will register with the Soviet leadership the fact that the United States means business about Dr. Sakharov.

Mr. President, we have had resolutions on Dr. Sakharov for years and years now, all to no avail. My colleague, the distinguished Senator from New York, Mr. D'AMATO, the Chairman of the Helsinki Commission, introduced another such resolution this week. But without teeth. Mr. President, unless we clearly show the Soviets that there will be consequences for their noncompliance with the written promises they made to the world in the Helsinki Final Act which they signed in August 1975, there will be no action. There has been none for 11 years.

Mr. President, my resolution seeks to promote Dr. Sakharov's release from Gorky with a clear signal to Mr. Gorbachev of the areas we are looking at. I want him and the Soviet leadership to know that there will be consequences for their disdain and disregard of the agreements they sign. For that reason, Mr. President, I ask that the text of Senate Joint Resolution 326 be printed in the RECORD.

The text follows:

S.J. RES. 326

Whereas Dr. Andrei Sakharov is a world-reknowned brilliant Soviet physicist, father of Soviet magnetic nuclear fusion research, and winner of the Nobel Prize for Peace;

Whereas Dr. Sakharov is being detained by the KGB under house arrest in Gorky for his activities under legitimate provisions of the Helsinki Final Act and in violation of basic human rights and against all principles which govern civilized man;

Whereas Dr. Sakharov will attain his 65th birthday on May 21, 1986;

Whereas Dr. Sakharov is in need of immediate medical attention and his detention in Gorky has become a threat to his very survival;

Whereas Dr. Sakharov's imprisonment is contrary to the Helsinki Final Act, the Human Rights Convention of the United States, and all generally accepted principles of human rights;

Whereas by continuing Dr. Sakharov's imprisonment the Soviets demonstrate disdain and disregard for agreements they signed, for the opinion of the entire world and for the basic dignity of mankind;

Whereas Soviet willingness to cooperate with the West only in areas of their choosing such as cultural, literary or scientific exchanges does not acquaint them of their immoral failing to keep promises on human rights;

Whereas Dr. Sakharov's release is an objective to be earnestly sought and actively pursued by free men everywhere: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

1. May 21, 1986, be officially proclaimed Andrei Sakharov Honor and Freedom Day;

2. the President of the United States mark this day with an appeal to the First Secretary of the Communist Party of the Soviet Union, Mikhail Gorbachev, to grant Dr. Sakharov's release;

3. hereinafter all official correspondence with the Soviet embassy in Washington, D.C. be properly addressed to "No. 1, Andrei Sakharov Plaza" in accordance with U.S. law;

4. the Department of State request that the Mayor of the District of Columbia move the "Andrei Sakharov Plaza" street sign from its current location 100 feet from the 1125 16th Street address to the city property located adjacent to that address, in compliance with the intent of Congress;

5. May 21, 1986, be recognized in the United States as a day to honor Dr. Sak-

harov by appropriate ceremonies in the Congress, the White House, and throughout our free land.●

DEDICATION OF THE PORTRAIT BUST OF CARL HAYDEN

(By request of Mr. DOLE, the following statement was ordered to be printed in the RECORD:)

● Mr. GOLDWATER. Mr. President, a unique ceremony in the history of the U.S. Congress is taking place today in the Russell Senate Office Building adjacent to the room where the late Carl T. Hayden once had his office. At 4 p.m. today, a ceremony will be held by the Joint Congressional Committee on the Library to dedicate the portrait bust of Carl Hayden which was commissioned pursuant to Senate Concurrent Resolution 7 of the 98th Congress. I had the distinct privilege of authoring that resolution and seeing its approval by passage in the Senate on May 23, 1983, and passage in the House of Representatives on August 1, 1983.

Mr. President, the bust being unveiled today commemorates the truly unique service in the Senate and the Congress and the Nation by the man who for so many years was my senior colleague, Carl Hayden. Carl served in Congress from Arizona for a total of 57 years.

Carl Hayden became the first elected Member of the U.S. House of Representatives from Arizona in 1912 and he served there for the next 15 years. In 1926 he was elected to the Senate and served consecutive terms here for a total of 42 years until he retired in 1968. In fact, Carl Hayden served in the U.S. Congress longer than any other person in history.

Mr. President, the contributions and achievements of Carl Hayden are virtually unparalleled in history, although they are not well known because he always shared the credit and worked for results, not for the publicity. His legislative accomplishments included a joint authorship of the 19th amendment giving women the right to vote and a major role in setting up the original Interstate Highway System.

Carl Hayden's work was done for all practical purposes before legislation ever reached the Senate floor. He did not go in for flowery speeches aimed at the Press Gallery or the evening television news. He accomplished what he set out to accomplish for his State and the Nation and he did his real work in committee and behind the scenes.

Carl Hayden's family was among one of the original settlers who entered the Salt River Valley of Arizona, and he was born in the territory of Arizona 35 years before it became a State. There is no one more qualified to receive this honor than the late Senator Hayden.

Mr. President, I ask that the official program of the ceremonies may appear in the RECORD.

The program follows:

[The dedication of the portrait bust of The Honorable Carl Trumbull Hayden, United States Representative, 1912 to 1927, United States Senator, 1957 to 1969, President Pro Tempore of the Senate, 1957 to 1969, on Thursday, April 17, 1986, at 4:00 p.m., elevator lobby, Northwest Corner, first floor, Russell Senate Office Building]

PROGRAM

INVOCATION

The Rev. Dr. James D. Ford, Chaplain of the House of Representatives.

INTRODUCTION

The Honorable Charles McC. Mathias, Jr., chairman, Committee on Rules and Administration, vice chairman, Joint Committee on the Library, accompanied by The Honorable Frank Annunzio, chairman, Committee on House Administration, chairman, Joint Committee on the Library.

DISTINGUISHED GUESTS

The Honorable Strom Thurmond, President Pro Tempore of the Senate; The Honorable Robert Dole, Republican Leader of the Senate; The Honorable Robert C. Byrd, Democratic Leader of the Senate; The Honorable Thomas P. O'Neill, Jr., Speaker of the House of Representatives; The Honorable James C. Wright, Jr., Democratic leader of the House of Representatives; The Honorable John J. Rhodes, former minority leader, U.S. House of Representatives.

UNVEILING

Mr. Hayden C. Hayden, nephew of the late Senator Hayden and Mr. Larry Hayden nephew of the late Senator Hayden assisted by The Honorable George M. White, FAIA, Architect of the Capitol and by the sculptor, Stafford Rolph.

REMARKS

The Honorable Barry Goldwater, U.S. Senate; The Honorable Dennis DeConcini, U.S. Senate; The Honorable Morris Udall, U.S. House of Representatives; The Honorable Bob Stump, U.S. House of Representatives.

BENEDICTION

The Rev. Dr. Richard C. Halverson, Chaplain of the Senate.●

ACCOMPLISHMENTS OF RITA STEINBERG

● Mr. McCONNELL. Mr. President, when Rita Steinberg of Louisville, KY, joined the National Council of Jewish Women 20 years ago, she began an impressive record of accomplishments and community service.

As a local council officer, she initiated an annual sale of donated used clothing which grossed $7,500 its first year, 1976. Last year, the event garnered nearly $159,000. When she later became president of the Louisville section of the NCJW, she made membership a priority for the organization. The NCJW consequently saw its ranks jump from 860 members to more than 1,000. Mrs. Steinberg then became a national board member of the NCJW and helped a section in Chicago start its own clothing sale. That section's first sale took in $40,000 its first year.

Mrs. Steinberg has also served her community as commissioner of the Louisville and Jefferson County Human Relations Commission and as a board member of Kentucky Youth Advocates.

Now she works full time as executive director of the Kentucky Art and Craft Foundation, a nonprofit organization providing educational and promotional opportunities for the State's artisans.

Mrs. Steinberg's contributions to her community have not gone unnoticed. Sunday, April 20, I will have the honor of presenting, on behalf of the Louisville section, the Hannah G. Solomon Award to Mrs. Steinberg for her endeavors.

A recent column by Joan Kay of the Louisville Courier-Journal describes Mrs. Steinberg's accomplishments and captures her spirit of service. Mrs. Steinberg says in the article that through her work in NCJW, "I've had a feeling all the time that my life had meaning—that what I was doing was making a difference in the world."

Mr. President, I ask that this article, which tells the story of Mrs. Steinberg's work so well, be printed in its entirety.

The article follows:

[From the Louisville Courier-Journal, Apr. 17, 1986]

COMMITMENT PAYS OFF FOR RITA STEINBERG AND WOMEN'S COUNCIL

(By Joan Kay)

Twenty years ago, nudged by her family, Rita Steinberg joined the National Council of Jewish Women, Louisville Section.

Her aunt, Sylvia Goldstein, was very active in the group and "probably paid for my first membership," said Mrs. Steinberg. "My husband's aunt in St. Louis was a national board member at the time so I was bombarded from all sides."

Mrs. Steinberg had hoped to make new friends. She found those all right and much more. Through working on NCJW projects that benefited the community, "I've had a feeling all the time that my life had meaning—that what I was doing was making a difference in the world."

Sunday the Louisville Section will recognize Mrs. Steinberg's contributions by presenting her with the Hannah G. Solomon Award.

The award is given "to someone who has shown dedication to improving the lives of children, the aging and women," says Renee Loeb, president of the Louisville Section.

Mrs. Steinberg's "devotion to community causes is just incredible. She was able to set a vision and was able to convince people they wanted to be part of it. She strives for the best and lets people know that is the standard."

Mrs. Steinberg remembers that her first volunteer assignment was helping a fifth-grade class put on its first play. At the time the organization sponsored many enrichment programs in public schools.

"It was a lot of fun. That's really what turned me on."

She soon moved to more of an administrative role as assistant treasurer and then treasurer of the section. "You really learn about an organization when you are treasurer because you know everything they are doing. You write all the checks."

One name she wrote on checks was the California Day Care Center, now called the California Area Family Development Center. The section covered the center's operating deficit and in 1971 put up $4,000 as seed money for a federal grant.

"I was impressed because I saw something really great we were doing," said Mrs. Steinberg.

As vice president of ways and means 10 years age, she started what would become a very profitable fund-raising event: Fashion Encore, an annual sale of donated used clothing.

Similar sales had been held with great success by NCJW sections in other cities.

Some Louisville members were leery of the idea, fearing that the sale would compete with the section's Nearly New Shop, a used-clothing store operated year round at 815 E. Market St.

They were also apprehensive that the Louisville group might not have enough members to handle the sale.

It took a year to convince the leadership that the project had promise, and the cash registers first rang in 1978. That sale grossed $7,500. Last fall's Fashion Encore grossed nearly $159,000.

Several years ago operation of the shop and the sale were merged, and nowadays the Louisville Section disburses more than $100,000 a year to community agencies and organizations.

The section's newest commitment to elderly people is NCJW ParkSide, a non-sectarian, adult day center that offers activities from 8 a.m. to 5 p.m. weekdays. It opened in January at 2101 Ellerbe Ave.

The section is the major supporter, but grants have been received from other sources.

As president of the organization in 1979-81. Mrs. Steinberg set a goal of increasing membership. "We were so into public affairs and community services that we had neglected membership.

"I wrote letters to everyone I knew who wasn't a member. People said they hated to see me coming at a party."

During her term, membership jumped from about 860 to more than 1,000. "Now we have over 1,100."

While she was a NCJW national board member, Mrs. Steinberg was sometimes a thrift-shop trouble-shooter and she helped a section in Chicago start a clothing sale, which took in $40,000 its first year.

In community posts outside the section, she has been a commissioner of the Louisville and Jefferson County Human Relations Commission and a board member of Kentucky Youth Advocates.

A native of Louisville, Mrs. Steinberg is the daughter of Mr. and Mrs. Mace Hymson. She and her husband, Larry, a partner in Touche Ross & Co., have a son, Scott, 19, a sophomore at Yale University, and a daughter, Laura, 16, a sophomore at Ballard High School.

Mrs. Steinberg now works full time as executive director of the Kentucky Art and Craft Foundation, a non-profit organization that provides education and promotional opportunities for the state's craftsmen.

At its base at 609 W. Main St., the foundation stages exhibitions and operates a crafts shop.

Mrs. Steinberg's main job is raising money for the foundation from memberships, corporate donations and grants. And she loves her plunge into the creative outpourings of Kentucky's artists, surrounded in her office by pottery, a carved rooster and a fabric hanging.

"It's a whole new world for me. I buy things all the time, particularly jewelry."

The Solomon award will be presented at the Louisville Section's annual meeting at 7:30 p.m. Sunday at The Temple, 5101 Brownsboro Road. The gathering is open to the public, and the presentation will be made by U.S. Sen. Mitch McConnell, R-Ky., a friend of the Steinbergs.

It seems a little strange to Mrs. Steinberg to be receiving as award from an organization "that has done so much for me. I can't imagine any course, any college, where I could have learned what I learned working in the section."

She credits the NCJW for the skills she acquired in management, public relations, dealing with people and budgeting.

"I never loved anything like I loved the section. It's wonderful to be honored by people you love and respect the most."●

TERRORISM

● Mr. WALLOP. Mr. President, in the past few weeks, this Nation's attention has been focused on international terrorism: What it consists of, who is behind it, and what can be done about it.

This week the United States responded forcefully to Libyan terrorism by staging a limited air assault on Libyan facilities that support international terrorism. This, I believe, is the beginning of a policy that will deal effectively with the threat of terrorism. The war on terrorism is not over with this one raid. It has just begun. We as leaders of this Nation must realize from the start that this policy, of not giving in to terrorists and of punishing them for their gratuitous acts of violence, must be sustained over a long period of time if it is to have any chance for success. We are dealing with a determined adversary, one that possesses great resources. But this Nation, and the entire Western World, has greater resources and, I believe, a greater capacity for moral courage than our enemies.

While we are all reflecting on this problem, let me commend to you a superb article on terrorism and how the West can beat it by Israeli Ambassador to the United Nations, Benjamin Netanyahu. He writes from the special perspective not only of an Israeli citizen, whose country has been all too often the victim of terrorist attacks, but with the personal experience of having lost a loved one in the execution of a sound antiterrorist policy that he knows to be right: Ambassador Netanyahu's brother, Jonathan, was the leader and only casualty of the daring Israeli commando force that rescued all but 3 of the more than 100 hostages held captive aboard a hijacked airliner at Entebbe.

This article is full of penetrating insights into the nature of terrorism and compelling arguments, both moral and practical, for continuing the policy that this Government has undertaken in its response to Colonel Gadhafi's murderous attack on a Berlin discotheque.

Mr. President, I ask that this article, from the April 14, 1986, edition of Time magazine, be printed in the RECORD.

The article follows:

TERRORISM: HOW THE WEST CAN WIN

(By Benjamin Netanyahu)

The realization that wild beasts prowl our airways and waterways, that they can escape retribution by fleeing to countries that respect, indeed worship, the law of the jungle, has steadily been replacing our older conception of justice, order and accountability in international affairs.

So writes Benjamin Netanyahu, Israel's Ambassador to the United Nations, in a forthcoming book whose assertive title sums up its argument—Terrorism: How the West Can Win (Farrar, Straus & Giroux; $18.95). The book grew out of a 1984 meeting of international officials and experts in Washington that explored the question: Just what can be done to stop terrorism?

The West's failure to answer the question was underscored once again last week when a terrorist bomb tore a hole in the fuselage of a TWA 727 en route from Rome to Athens. The explosion killed four American passengers, who were sucked out of the plane and fell 15,000 ft. to their death. Libya's Muammar Gadhafi disclaimed responsibility, but concern remained high that he would attempt to exact revenge—sometime, somewhere—for the U.S. Sixth Fleet's bloodying of his forces.

Netanyahu, a former soldier, businessman and the editor of Terrorism, has a strong personal reason for his concern with the subject. He is the younger brother of Lieut. Colonel Jonathan Netanyahu, leader of the daring Israeli commando force that rescued all but three of the more than 100 hostages held captive aboard a skyjacked airliner at Entabbe, Uganda, in 1976. The Israelis lost only one of their men during the raid, but that was Jonathan Netanyahu, shot dead at the age of 30 by an airport guard. Ambassador Netanyahu, who organized the Jonathan Institute to fight terrorism, sees in the overall results of Entebbe a lesson to be widely applied today. Though some will surely find his prescriptions too tough and will quarrel with his refusal to give undue weight to the root causes of terrorism, the fact remains that no Israeli plane has been seized in the ten years since Entebbe. What follows is excerpts from his introduction and essay, along with a selection of brief quotes from other contributors to the book.

International terrorism is not a sporadic phenomenon born of social misery and frustration. It is rooted in the political ambitions and designs of expansionist states and the groups that serve them. Without the support of such states, international terrorism would be impossible.

Access to the media is also indispensable. First the terrorists seize our attention by committing a brutal act. Only then does the real performance begin: the communiqués, the parading of dazed hostages before the cameras, the endless interviews in which the terrorists are respectfully asked to explain

their demands and conditions. Slowly, imperceptibly, the initial horror recedes, and in its place comes a readiness to accept the terrorist point of view.

We are asked to shed our normal revulsion for murderous acts and accept the notion, endlessly repeated, that "one man's terrorist is another man's freedom fighter." This is precisely what the terrorist would like us to believe. It is completely untrue. At the risk of belaboring the point, I offer a formal definition: Terrorism is the deliberate and systematic murder, maiming and menacing of the innocent to inspire fear for political ends. This distinction lies at the heart of the matter. For without a clear understanding of terrorism, the problem cannot be tackled.

Terrorists habitually describe themselves as "guerrillas," but guerrillas are not terrorists. They are irregular soldiers who wage war on regular *Military* forces. Terrorists choose to attack weak and defenseless civilians: old men, women and children—anyone in fact *except* soldiers if terrorists can avoid it.

This indeed is one of terrorism's most pernicious effects: it blurs the distinction between combatants and noncombatants, the central tenet of the laws of war. It is not only that the terrorist breaks down this standard but that we begin to accept his standards. With each fresh attack, the public is conditioned—first by the terrorists, then by their complaint interpreters in the press—to equate innocent hostages with jailed terrorists and to accept the notion that the murder of children is a regrettable but understandable expression of the terrorists' purported grievances.

There are those who say that war is war and that any attempt to define ethical limits is futile. But short of the rare and difficult case of total war, such as during World War II, most people would agree that there is a significant difference between waging war on armed combatants and attacking defenseless civilians. None of the resistance movements in Nazi-occupied Europe conducted or even condoned, terrorist attacks against German noncombatants, such as officers' wives or children. Without such distinctions, the concept of war crimes loses any meaning. For if everything is permissible, why not gas innocent people or machine-gun children?

It is here that the terrorist parts company with humanity. He declares a total war on the society he attacks. For him everyone is a legitimate target. A baby is fair game, he may, after all, grow up to be a soldier. So is the baby's mother, she gave birth to this future soldier. No one is spared, ordinary citizens and leaders alike.

Having defined all of society as a field of combat, the terrorist demands that his activity, which would ordinarily be viewed as gangsterism, be treated with the respect given to legitimate warfare. That is why he often takes on all the trappings of a soldier; that is why he issues "communiques" instead of simple statements and why he insists that his jailed accomplices, who are in fact dangerous criminals, be accorded the status of prisoners of war.

Though terrorism as such is not new in history, or even in this century, today's terrorism differs in its extent and its violence; it now attacks the territory and citizens of nearly all the democracies. It began its rapid growth in the 1960s. It was sparked by the early success of two groups of terrorists: the P.L.O., which introduced airline hijackings as an international weapon, and European radical factions, which carried out increasingly bold bombings, kidnapings and assassinations throughout the Continent. Terrorist groups, seemingly independent from one another, soon proliferated throughout Europe, Japan, North and South America and the Middle East. But as the evidence piled up, the Arab P.L.O., the Iranian *mujahedin*, the Armenian A.S.A.L.A., the German Baader-Meinhof gang, the Italian Red Brigades, the Japanese Red Army and others were often found to be linked not only to one another but to the Soviet Union and radical Arab regimes. Only after the P.L.O.'s expulsion from Beirut did captured P.L.O. documents reveal the role of its terrorist ministate in Lebanon as a training center and launching ground for what had become a kind of terrorist international.

This collaboration between Marxist and Muslim radicals is not accidental. Modern terrorism has its roots in two movements that have assumed international prominence in the second half of the 20th century: Communist totalitarianism and Islamic (and Arab) radicalism. These forces have given terrorism its ideological impetus and much of its material support. Both legitimize unbridled violence in the name of a higher cause, both are profoundly hostile to democracy, and both have found in terrorism an ideal weapon for waging war against democracy.

Indeed, international terrorism is overwhelmingly an extension of warfare sustained and supported by the states built on the foundations of Marxism and radical Islam. The Soviet Union, several of its East European satellites, Cuba and North Korea, and Middle Eastern states such as Libya, Iran, Syria, Iraq and South Yemen have given terrorists weapons, training and money. They have also provided sanctuary, safe passage and safe houses—often their very embassies. And they have supported terrorism on the crucial political level, legitimizing it and blocking international measures against it.

Why have certain radical states begun to resort to terrorism? Since the end of World War II and the dawn of the nuclear age, the waging of war has become increasingly expensive and risky. For a superpower like the Soviet Union a direct confrontation with the West entails the unacceptable risks of atomic war. For smaller states, conventional war can also escalate into intolerable conflict or outright defeat. Terrorism is part of the broader trend toward waging war by proxy. It permits regimes to engage in aggression while evading responsibility or retaliation.

As the number of attacks has increased tenfold in the past decade alone, a clear pattern has emerged. The targets of terrorism have been, more and more, Britain and Germany, Spain and Portugal, France and Italy, Israel and Japan, and, above all, the U.S. (whose nation accounted for roughly a third of terrorism's victims since 1968)—in short, the West. A network of professional terrorists seeks to weaken and demoralize democratic societies by attacking their citizens, their leaders, their institutions, thereby disrupting their way of life and sapping their political will. And it is a growing threat. Terrorist attacks now kill and injure not one or two but hundreds at a time. Few doubt that other, more lethal, weapons may be employed in the future.

The terrorist's strategy is premised on the ability to deliver future blows, no matter what. The fear and intimidation that terrorism thrives on are totally dependent on this threat. The primary task in fighting terrorism, then, is to weaken and ultimately destroy the terrorist's ability to launch attacks. This is often presented as a difficult or even impossible task. It is asserted that the clandestine nature of terrorism and the openness of Western societies make terrorism against the West nearly impossible to root out. I would argue the exact opposite. Terrorism can be stopped. The minute you weaken its ability to deliver repeated blows, you have broken its back, and it is well within the means of the West to achieve this.

Condiser, for example, the classic terrorist act, the taking of hostages. More than any other act of terrorist violence, it reveals two underlying characteristics of terrorism. First, it is an unmistakably deliberate assault on the people who are seized, precisely because they are noncombatants. Second, it affords a stage for dramatization and distortion. Hostages taking places a government in a terrible delimma: if it use force to release the hostages, it might end up with more people killed than if it gives in. If it yields, the terrorists emerge victorious. Sometimes the terrorists resolve this delemma by killing a few hostages and threatening to murder the rest if their demands are not met. The government can then argue that since more hostages are about to be killed, it must take action immediately.

But suppose the terrorists have not started killing hostages. Should they not fear a forceable response? The more terrorists believe that military intervention is likely, the less prone they will be to continue their seige. In the hijacking of both the TWA airliner out of Athens last summer and the cruise ship Achille Lauro last fall, a principal reason that the terrorists released their hostages was their belief in imminent intervention—retaliation afterward in the case of the airline and military rescue of the *Achille Lauro* (both American and Italian forces were poised to storm the ship on the day the pirates surrendered).

Terrorists have often escaped because of the sloppiness of the West's thinking about the use of force. America's loss of clarity in the wake of Viet Nam has become a general Western malaise. The rules of engagement have become so rigid that governments often straitjacket themselves in the face of unambiguous aggression. But a fundamental principle must be recognized under no circumstances should a government categorically rule out a military response simply because of the risk of civilian casualties. There is a practical and a moral basis for this position. In practical terms, an inflexible rule against risking civilian casualties would make any military action virtually impossible. In moral terms, an absolute prohibition on civilian casualties today condemns to death or injury many future victims. Terrorism, undeterred, will inevitably increase.

Responsible governments seek to minimize civilian casualties. But they do not grant immunity to an aggressor simply because their response might endanger civilians. If this is true in normal combat, it is truer still in the case of terrorism. An absolute prohibition on civilian casualties provides the terrorist with an invincible shield. This is not only true in cases which he fears retaliation following his attacks (for example, when the terrorist seeks immunity by planting his bases among civilians). It is also true during the taking of hostages, when the terrorist even more brazenly seeks the

authorities to risk the lives of innocent victims by taking action.

Terrorists generally do fear military intervention, and that fear has a tremendous inhibiting effect on hostage taking. This is best demonstrated in the case of Israel. No other nation suffered more from this form of attack. In the 1970s Israel experienced a large number of hostage takings, including the hijacking of planes and the seizing of schools, apartments, hotels and buses. In all these cases, the government refused to capitulate to the terrorists' demands. Soldiers overcame the terrorists and liberated the hostages. This was by no means an easy course to follow. The government painfully recognized that its policy made some civilian casualties unavoidable; in 1974 at Ma'alot, 21 schoolchildren were massacred by the P.L.O. before the terrorists were themselves killed.

But the result of this determined refusal to yield was that hostage taking gradually became a rarity inside Israel. This was not because the P.L.O. was unable to stage such incidents but because it finally realized that there would be no surrender and that the terrorists would fail and probably be killed. Contrary to popular myth, cases of suicidal terrorism are rare; overwhelmingly, terrorists want to live, to escape unpunished.

The P.L.O. sought to overcome Israel's resolve by seizing Israeli planes or hostages outside Israel. But these attempts were defeated as well. In the most celebrated example, the case of Entebbe, Israeli troops flew more than 2,000 miles, liberated the hostages and killed their captors. For a decade afterward, not a single Israeli or Israel-bound plane was hijacked, and virtually no attempts were made to seize Israeli hostages abroad.

The refusal to capitulate and the decision to apply force were adopted in several important instances by other governments. The German government forcibly liberated German hostages on the hijacked Lufthansa airplane in Mogadishu in 1977, the Dutch successfully stormed a train hijacked by the South Moluccans (1977), and the British freed the occupied Iranian embassy in London (1980). For some time afterward, these countries experienced no further hostage takings. Far from endangering a cycle of increased violence, the application of military force or the prospect of such application inhibits terrorist violence.

The only sensible policy for attacked governments, then, is a refusal to yield and a readiness to apply force. This is a policy that says to the terrorist, I will not accept your demands. I demand that you release the hostages. If you do not do so peacefully, I am prepared to use force. I am proposing a simple exchange your life for the lives of the hostages. The only "deal" I am willing to make with you is that if you surrender peacefully, I will not kill you.

Obviously, there can be complicating circumstances. What if military intervention truly does endanger the lives of most or all of the hostages? Ths is not quite as frequent as might at first appear. Many governments have specialized forces trained to overcome terrorists before they kill most of their hostages.

Rescuing hostages requires impressing on military forces the importance of minimizing firepower. In storming a building, the normal military procedure is to shoot first and look later. But in rescuing hostages, the soldiers' job is exactly the opposite: they must look first and shoot later, and even then only when it is absolutely necessary. Sometimes they fail, as in last year's attempt in Malta. But as the experience of Israel, West Germany, Britain and Holland shows, more often than not such specially trained units succeed.

Suppose the terrorists have not merely seized hostages but have hidden them? Perhaps the most celebrated case is the kidnaping of Italy's former Prime Minister Aldo Moro by the Red Brigades. Italy refused to capitulate, and Aldo Moro was murdered. As tragic and painful as the decision was, it was the right one, as was the firm Italian policy in the immediate aftermath of the Moro kidnaping. Unlike the weakness it later showed during the *Achille Lauro* affair, the Italian government mounted a vigorous effort to hunt down the Red Brigades and improve the effectiveness of its security forces. By the time of the next major kidnaping, that of General James Dozier, it was able to apprehend the terrorists and liberate their hostage. Whether or not such rescue is possible governments must persist in refusing to capitulate.

Perhaps the most complicated case of hostage taking is that in which the terrorists find refuge in the territory of a country hostile to the West. Short of declaring war, what can be done? It is often difficult, though by no means impossible, to launch a limited military operation to rescue the hostages. In any case, the principle remains the same—the refusal to yield and the threat of intervention or retaliation. Retaliation can take several forms, against the terrorists themselves and the governments that shelter them. The main point is that both the terrorists and their governmental patrons must believe that they will eventually be punished (preferably sooner rather than later).

What is true of hostage taking is true of other forms of terrorism. The terrorist always considers, and fears, a forceful response from his victims' government. To the extent that he believes he will be tracked down and punished, he will curb them. Deterrence works on terrorists just as it does on anyone else.

Terrorists may at first respond to a government's policy of firmness with an acceleration of violence, but they usually cannot withstand a sustained and resolute policy of resistance and active pursuit. Retaliation and pre-emption against terrorism are thus acts of self-defense. Denying the necessity for such self-defense, and blurring the moral basis for it, is dangerous. It undermines a basic principle on which government authority is based. A government's first obligation is to protect its citizens. Confusion or vacillation fools no one, least of all terrorists.

One point is central: international terrorism as we know it would simply not be possible without the collaboration of governments that have used terrorism to wage hidden war against their adversaries, especially the West. After the *Achille Lauro* piracy, Abul Abbas, its mastermind, skittered from Egypt to Italy to Yugoslavia to Iraq to South Yemen, where he finally found his most suitable haven. Without the collusion or acquiescence of friendly or passive governments, he would have been caught and brought to trial. The support of friendly regimes and the passivity of others are the crucial assumptions under which international terrorism operates.

Just as hostile governments have caused the internationalization of terror, they are also the key to its end. For states are no less susceptible than the terrorists they support to a sober calculation of costs and benefits. The very reason certain regimes rely on terrorists is to be able to wage war without the risks that war entails. As long as they are successful in denying complicity or involvement, they will easily escape retribution.

Once this is understood, the democracies can begin to act effectively in three broad areas against offending states.

POLITICAL PRESSURES

These could range from international condemnation to cutting off diplomatic relations (as the U.S. and Britain did with Libya). Political pressures signal to the terrorist state that the victim not only is unwilling to yield but is prepared to expose the offender to public censure. This could force other states to take a position against the offender, or at least to curb their support for it. Since many states sponsoring terrorism depend on the ability to deny complicity in terrorist crimes, this is not a minor threat. In the severance of diplomatic relations, an added penalty is the shutting down of embassies. Terrorists simply cannot sustain a concerted campaign of attacks in most Western countries without sanctuary or inviolable means of passing funds, arms and intelligence.

The embassies and diplomatic pouches of Syria, Iraq, Iran, Libya, South Yemen and other Middle Eastern states, as well as Soviet bloc embassies, have turned parts of Western Europe into a veritable playground of terrorists. Weapons, passports, money, safe houses have all been made available to terrorists by people hiding behind diplomatic immunity. Without embassies, the effectiveness of terrorism in the West would be sharply diminished.

ECONOMIC PRESSURE

Most of these countries desperately need Western goods, weapons or credit. There are certain sophisticated products, including advanced weapons, that only the West can supply. If the democracies used but a fraction of their enormous economic clout, they could cause regimes supporting terrorism to rethink some of their activities.

Economic pressure could be a combination of boycott and embargo. In the case of Libya, a prime offender, the U.S. has willingly forfeited hundreds of millions of dollars of trade to send an unmistakable and economically painful message to that regime. Another potent sanction that can be readily applied is the denial of landing rights in major Western capitals to the commercial planes of terrorist states. The same could apply to docking rights for the ships of offending states.

MILITARY ACTION

This cannot be ruled out, nor should we be bashful about discussing it. When we talk about using military force, we must first consider unilateral action, one state's taking action against terrorists or a state that shelters them. Obviously, if a terrorist action occurs on a government's own soil, it will take action to protect its own citizens and foil the terrorists.

But what about a terrorist attack on a country's citizens abroad, in embassies, businesses or airlines? In the case of a hijacking, piracy or other hostage taking, the responsibility of securing the release of the hostages is that of the government on whose soil (or ship or plane) the incident takes place. One would hope such governments would adopt a firm policy against the terrorists, but if a government cannot or will not undertake forcibly to end a hostage crisis, it forfeits a

certain measure of jurisdiction. The country whose nationals (or plane or ship) are held hostage has the right to act when the host country refuses to do so. Take the cae of Entebbe. Uganda had an obligation to intervene and end the hijacking. When it refused to do so, the right to act passed to Israel and France (most of the passengers were Israeli; the plane was French). Since France was not considering any military move (although it helped in gathering intelligence), Israel had a perfect right to act.

This is at odds with a widely held view that national sovereignty is absolute and cannot be violated. But of course it is not absolute. Countries do not have the right to do anything within their borders. They risk the intervention of other states if they fail to live up to elementary international obligations.

Sovereignty does not in any way preclude a government from allowing another government to assist in or carry out a rescue operation, as, for example, the Somalis did when they approved the intervention of West Germany's antiterrorist unit in the Mogadishu incident. In most cases, therefore, even weak or hesitant governments have a choice. Bluntly put, they can either do it themselves or let someone else do it.

What about the use of force in circumstances other than hostage taking? Western governments already possess ample intelligence evidence (such as satellite photos of training camps, interception of communications, reports from agents in the field) of continuous support for terrorists from certain governments. Such a record of complicity is more than strong enough to justify punitive action against these criminal states. Plenty of military or strategic targets can be struck to inflict severe damage, while avoiding excessive, if any, civilian casualties.

Two objections are frequently raised. First, the prospect of reprisals. Libya's Muammar Gaddafi, who clearly harbored the Palestinian terrorist Abu Nidal prior to his attacks on Americans and others in European airports last December, promised to retaliate if the U.S. took any action against him. He went so far as to promise to set the Mediterranean ablaze and even to precipitate global war. Such bluster should be viewed realistically. It emanates from fear. It also at times may be partly realized. We should recognize that a successful war on terrorists will involve a succession of blows and counterblows, and some unavoidable casualties along the way. What is required is a commitment to a continuous campaign against its sponsors, not just erratic responses to individual terrorist acts. There are no "one-shot" solutions. A forceful response against aggression may very well elicit reprisals initially. But over the long run, it is the only way to make governments stop launching terrorist killers. They need to know, they must know, that the West will not sit back and take it.

The second objection raised to military action against states sponsoring terrorism is that it will induce political consequences unfavorable to the West, such as the weakening or collapse of friendly regimes in the Middle East. Actually, these very regimes, despite their public pronouncements, would secretly welcome such action; after all, they too are frequently victims of the terrorist war. Still, what about unfavorable political developments? In many regions of the world, especially the Middle East, anger precedes respect. There may be a lashing out at Western or pro-Western targets following a military action, but there is a concomitant, if grudging, assessment by the terrorists of new limits. A posture of weakness, a repeated refusal to confront and punish the regimes behind the terrorists, not only invites further aggression but ultimately weakens the West's position, and consequently the position of its allies, in these regions and throughout the world.

Terrorists and the states that support them are serious adversaries. They are devious, ruthless and persistent. But the West has worsened the problem by its own disunity. For too long terrorists have succeeded in the strategy of divide and conquer. Governments have made separate deals with terrorists, allowing them, for example, freedom of movement in exchange for promises of immunity. But terrorists, who by their very nature ridicule the notion of law and treaties, always violate their agreements. The Western countries must face up to a simple truth: no deals are possible with terrorists. The success of terrorism in one part of the world encourages terrorists everywhere. Terrorism is an indivisible problem, and the fight against terrorism must be indivisible as well.

This means that you cannot "understand" terrorism when directed against someone else while opposing it when directed against yourself. Terrorism threatens the foundation of lawful and humane existence everywhere. And it thrives on weakness. It is naive to think that the I.R.A. does not take note of periodic British courting of the P.L.O. The same applies to the Red Brigades vis-a-vis the Italian government's dealings with Arab terrorists, and so on.

What is required is a basic realignment of international attitudes toward terrorism. While all governments offer rhetorical opposition to terrorism, including the adoption of a U.N. resolution condemning terrorism in 1985, in practice they fall into one of three categories: a few governments actually oppose terrorism, and do so consistently; others actively support terrorists; but most fall into a third broad category, the neutrals. They either acquiesce in terrorism or refuse to actively oppose it.

The measures against states that support terrorism are essential, but we must also do away with the middle ground of neutrality. Governments must be made to understand that if they acquiesce in terrorism, they are in practice supporting it. The provision of safe passage to foreign terrorists, such as Egypt offered to the hijackers of the *Achille Lauro*, should be considered an act of simple collusion. It is tantamount to offering a foreign army passage through your territory in time of war. Similarly, accepting a hijacked airplane or ship without accepting the concomitant responsibilities of preventing the escape of the terrorists is also an act of collusion; so is the refusal to extradite or punish terrorists.

The provision of sanctuary for terrorists is also an act of collusion. I am not talking about taking in war refugees who have laid down their arms (as France did after the Spanish Civil War). I am talking about permitting armed bands to wage terrorist war against a neighboring state from one's own territory. This is not one of the privileges of sovereignty. It is a clear act of aggression. It can and should be treated as such by the attacked state, which has every right to take action against the terrorists or the government that shelters them. It may do so either in hot pursuit, in retaliation or even in pre-emptive action. The right of self-defense takes precedence over sovereignty.

When a state deliberately employs terrorists, the distinction between striking back at the terrorists themselves or at the governments that shelter them is one of practical consideration, not of principle. There is certainly no moral imperative to confine the retaliation to the actual perpetrators; the terrorists, after all, are merely servants of the government. In war, limiting a counterattack to exactly those soldiers who fired at you would be absurd.

Lesser forms of tolerating terrorism, like lax security safeguards in airports, should be considered a tacit form of collusion with terrorists. It allows them to penetrate air routes and attack civilians from all countries. Offending governments should be told that their airports will be cut off from the international aviation system until they improve security.

The broad assortment of "neutral" states that repeatedly, or as a matter of policy, facilitate the operations of terrorists must be told that they risk being subjected to some or all of the sanctions that outright supporters of terrorists invite upon themselves.

A policy of firmness will make it clear that individual terrorists will be pursued, caught and punished; that the organizations that launch them will be subject to attack; that the governments that shelter them will face political, economic and, ultimately, military retaliation; that other governments that collude less brazenly will also be held accountable.

What, then, has inhibited the widespread adoption of this policy by the West? I believe it is the persistent effects of three vices. One is greed, or heedless promotion of economic self-interest, whatever the political or moral consequences. A second is political cowardice, which means sitting it out while your ally is attacked, or responds to an attack, so as not to invoke the wrath of the terrorists. Both factors played a part in the immediate rejection by several governments of the American initiative for sanctions against Libya following the attacks on the Rome and Vienna airports. Neither cowardice nor greed will easily disappear. If, however, the U.S. persists in its firm stance, I believe that it will eventually succeed in pressuring, even shaming, other Western states into compliance.

But there is a third, even more pernicious impediment that needs to be overcome: a confusion that is both moral and intellectual. We in the West believe in the capacity of politics to mitigate, and resolve, all conflict. We automatically tend to endow an adversary with the same assumptions. These could not be more misplaced than in the case of terrorists, who use political language to destroy the concept of politics altogether. And even when we catch a glimpse of this truth, we fail to grasp its essence. For the West is in awe of fanaticism. It is confused before a supposed willingness to die for a cause, believing that such readiness must be based on a cause that is at least partially just. Even a cursory reading of history tells us how dangerous a notion that is. No people were more prepared to sacrifice their lives for a cause than the Hitler Youth.

But our present notions of terrorism are informed not by history but in large measure by the media. This is why terrorists, in their war against the West, devote so much of their strategy and their effort to capturing the Western press and using it for their own purposes. But this need not succeed. Terrorism's reliance on the press and television of the democracies gives the media tremendous power not only to amplify terrorism's message but also to snuff it out. They can and should refuse to broadcast indis-

criminately interviews with terrorists. They can and should expose their grisly acts for what they are.

What the public has a right to demand of journalists is the same scrupulousness and professionalism, no more and no less, that they would show in the case of covering organized crime and its bosses. The proven power of a thorough press investigation to expose and to repudiate such corruption—indeed, to galvanize public opposition against it—is exactly the power that can be harnessed against terrorism. A thoughtful press can turn terrorism's greatest weapon against the terrorists themselves.

This is the responsibility of the West's press. It is second only to the responsibility of its political leadership. For only a determined leadership can make the West overcome the impediments of greed, cowardice and moral confusion.

Which leadership? It can come only from the U.S., which alone has the capacity to align the West's resistance, alone can credibly threaten the offenders and alone can impel the neutrals to shed their neutrality. The U.S. appears to be moving in this direction, albeit sometimes at an uncertain pace. The more the U.S. resorts to action, like punishing terrorists and their backers, the greater the number of states that will join the American efforts to combat terrorism. Allies and adversaries alike, the entire world is waiting to see the depth of the American resolve.

The West can win the war against terrorism, and fairly rapidly. But it must first win the war against its own inner weakness. That will require courage. First, government leaders must have the political courage to present the truth, however unpleasant, to their people. They must be prepared to make difficult decisions, to take measures that may involve great risks, they may even end in failure and subject them to public criticism.

Second, the soldiers who may actually be called upon to combat terrorists will need to show military courage. It will be up to them to decide whether they can or cannot undertake a particular operation that a government is considering. In the special units of the Israeli army, for example, no one has ever simply been told by the political leadership that he must accept a perilous assignment. The commanders are always asked: Is it possible? Do you think you can do it? And if they ever said it could not be done, or even if they expressed doubts, that would have been the end of the matter.

But there is also a third kind of courage: the civic valor that must be shown by an entire people. All citizens in a democracy threatened by terrorism must see themselves, in a certain sense, as soldiers in a common battle. They must not pressure their government to capitulate or to surrender to terrorism. This is especially true of public pressure on government by families of hostages. Such pressure can only be called a dereliction of civic duty. If we seriously want to win the war against terrorism, we must be prepared to endure sacrifice and even, should there be the loss of loved ones, immeasurable pain.

Terrorism is a phenomenon that tries to evoke one feeling: fear. It is understandable that the one virtue most necessary to defeat terrorism is therefore the antithesis of fear: courage.

Courage, said the Romans, is not the only virtue, but it is the single virtue without which all the others are meaningless. The terrorist challenge must be answered. The choice is between a free society based on law and compassion and a rampant barbarism in the service of brute force and tyranny. Confusion and vacillation facilitated the rise of terrorism. Clarity and courage will ensure its defeat.●

NATIONAL MATHEMATICS AWARENESS WEEK

● Mr. RIEGLE. Mr. President, Congress has designated this week of April 14 to 20, 1986, as "National Mathematics Awareness Week." I strongly support this effort to increase public understanding and appreciation of the important role mathematics plays in our lives and which encourages our young people to develop skills in this area.

Without a strong mathematics foundation in the United States, we as a world leader suffer. Mathematics is essential for the economic security and defense of our country. Math skills are fundamental to all aspects of science, ranging from physics and chemistry to behavioral science. Our young scientists today will be developing the technological breakthroughs of tomorrow.

Recent findings have shown that American students are scoring lower in mathematics than those from a dozen other industrial nations. Enrollment in mathematics programs has been declining at all levels. In 1984 only 55 percent of mathematics doctoral graduates from U.S. institutions were U.S. citizens.

America must gain back its competitive edge. For several years we have confronted a severe trade crisis which presses the deficit upward. While the reasons for our decline in competitiveness are varied, part of the problem lies in the need to better educate our labor force in new technologies. Since the 1983 National Commission on Excellence in Education composed its report, "A Nation at Risk" there have been numerous studies that sadly display a declining trend in our Nation's academic performance.

We must take action now to help our children prepare for the job markets of the future. Our ability to maintain and improve our competitiveness in the world economy depends upon the strength of our training in increasingly technical areas requiring strong math skills.

"National Mathematics Awareness Week" must provide an impetus for further scholastic improvements in the field of mathematics and draw attention to the vital role this area of study plays in our country's future and well-being.●

THE BUDGET

● Mr. QUAYLE. Mr. President, I ask that an interesting Wall Street Journal article about Congress appear in the RECORD.

The article follows:

[From the Wall Street Journal, Apr. 16, 1986]

DEMOCRATS ARE THE BUDGET CULPRITS

(By James L. Payne)

There's no doubt that a crime has been committed. We can all see the evidence: Federal spending has increased more than eightfold in the past 20 years, outstripping revenues and leaving us with a staggering deficit. The problem does not stem from increased defense spending. These outlays have increased only modestly overall (thus shrinking defense's share of the budget from about half to one-quarter). Skyrocketing domestic spending is the heart of the problem.

But who did it? Who is to blame for all this increased spending?

The popular view, echoed most recently by David Stockman, is that Republicans are about as much to blame as Democrats. Having spent four years trying to persuade fellow Republicans to vote against spending, Mr. Stockman concludes that "a large share of the problem is us."

The popular theory goes that each party has an ideological commitment to a particular segment of society. The Democrats favor the lower classes, and have therefore pushed for more spending in the welfare-related areas, while the Republicans, representing upper-income groups, have sought higher spending for business and wealthy interests. In this same theory, each party has tended to oppose the spending measures favoring the pet groups of the other. Hence, each party can claim an alibi when it comes to the deficit and point an accusing finger at the other.

Unlike a drawing-room mystery, the crime of runaway federal spending is easy to solve. An extensive public record exists in congressional votes on spending bills. These are the deeds that create the higher spending. By tabulating these votes, we can discover who is to blame.

In selecting spending bills for analysis, certain rules must be observed to avoid misleading results. One avoids using bills with other issues piggybacked on them—called "riders"—because the votes on these bills represent a confusing mixture of motivations. One also avoids using the final votes on spending measures (which embody prior compromises), votes on frivolous proposals, highly lopsided votes, votes with low attendance, and votes on parliamentary issues.

Working within these guidelines, I studied House of Representatives voting patterns on domestic spending during 1984—David Stockman's last full year as budget director. Twelve key votes were selected for analysts, with three votes each in the areas of welfare, agriculture, science and culture, and business.

VOTING ON DOMESTIC SPENDING MEASURES

[House of Representatives, 1984]

	Percentage voting for higher spending	
	Democrat	Republican
Welfare measures:		
Weatherization for low-income homeowners	53	13
Child nutrition	92	28
Grace Commission savings	76	22
Average	73.7	21
Agriculture measures:		
Organic farming/crop rotation subsidies	81	10
Grace Commission savings	78	33

VOTING ON DOMESTIC SPENDING MEASURES—Continued

[House of Representatives, 1984]

	Percentage voting for higher spending	
	Democrat	Republican
1 percent reduction in Department of Agriculture	58	15
Average	72.3	19.3
Science/culture measures:		
Water resources research (veto override)	99	46
Funding for advanced computers	83	7
Public broadcasting	78	20
Average	86.7	24.3
Business/commercial measures:		
Loans to "non-disadvantaged" businesses	99	56
Deauthorize Cross-Florida Barge Canal	60	35
Synthetic fuels spending	67	42
Average	75.3	44.3
Grand average, all 12 issues	77.0	27.2

Source: Congressional Quarterly Weekly Reports.

The accompanying table shows the results. Looking at the welfare spending votes first, the "ideological" theory seems to hold up. The Democrats are clearly for higher spending, while the Republicans are predominantly opposed. As we turn to agriculture, however, the ideological theory starts to look shaky, for the Democrats are pushing for higher spending in this area—most of which goes to wealthy farmers and agribusiness corporations.

In spending on science and culture we find the contradiction deepens. The Democrats are overwhelmingly in favor of higher spending, even though these funds go to well-heeled scientists, educators and administrators. One bill, for example, allocated $180 million to water research institutes in each of the 50 states. After taking their cut, the managers of these institutes would in turn spread the money around to university personnel. The Republicans differ from the Democrats even more sharply on these issues than on welfare spending.

The biggest surprise, however, comes when we look at the votes on pro-business spending. In direct contradiction to the ideological theory, it is the Democrats who are plunking for spending in this area. On the proposal to eliminate Small Business Administration direct loans, for example, the Democrats voted 242-2 against elimination (for higher spending). Exempted from this proposed elimination were minority, handicapped, and other "economically disadvantaged" groups. So the Democrats were lining up, almost unanimously, to save a federal program of loans to ordinary businessmen. The Florida Barge Canal was opposed not only by the economy-minded but by certain environmentalist groups; nevertheless, most Democrats, including scores of liberals, voted to retain the project. This vote typifies the recent voting pattern on public works: Democrats are almost always more in favor of these projects than are Republicans.

We have to conclude, then, that the ideological theory about federal domestic spending is way off the mark. It is not true that all congressmen are equally in favor of higher spending. The Republicans tend to oppose spending in all domestic categories, including pro-business spending. Tabulations done by the National Taxpayers Union further confirm that Democrats are bigger spenders than Republicans. In the House in 1984, the average Republican pro-savings score was 50% while the average Democratic score was 26%. Of the top 50 penny-pinching members, 49 were Republicans. All 50 of the worst spenders were Democrats. The NTU study, by the way, is based on all 207 House spending roll-call votes in 1984, and includes votes on Pentagon spending.

One might wonder whether my finding is the result of the particular votes selected. These votes were chosen, however, because they seemed most satisfactory for answering my question: Turnout was high, the spending issues was important and clearly drawn, the vote was close, and so on. But even when one goes beyond this collection of particularly suitable votes, the pattern does not change. Democrats are more in favor of higher spending—even on trivial issues that have no ideological or policy importance.

For example, one bill proposed that the 500th anniversary of the discovery of America be celebrated at federal expense through the creation of a $2 million commission whose 20 staffers (not likely to be drawn from the ranks of the poor) would labor for five years tooting the horn of Christopher Columbus. This measure was approved by 83% of the Democrats; only 44% of the Republicans voted for it.

Even the rhetoric reflects the gap between the parties. Consider the following statement made on the floor of the House in 1982. In contention was an item in the NASA budget, a $35 million add-on in the funds for aeronautical research. The speaker urged the increase on the ground that it "may be in some respects the life or death of companies like Boeing, United Technologies, Pratt & Whitney, Rockwell, General Dynamics. . . ." This defender of subsidies for the Fortune 500 was Democrat Dan Glickman of Kansas. His party followed his lead: 83% of the Democrats voted for the expenditure, vs. only 20% of the Republicans.

Is perhaps my analysis faulty because it is based on a special period when it was a Republican president who sought to restrain spending?

If we go back in time we find the same pattern. Although little noticed, it was Democrats, not Republicans, who provided the major support for the 1979 Chrysler loan guarantees—a bailout that favored not only the company's investors but also highly paid auto workers. In the House, 81% of the Democrats voted for the bailout, as opposed to only 41% of the Republicans; in the Senate, 71% of the Democrats supported it while only 31% of the Republicans did.

Another revealing vote occurred when the Carter administration attempted to kill some especially wasteful water projects in 1980. The array of political and ideological interests pressuring Democratic congressmen not to spend the money was unprecedented. President Carter was joined by Interior Secretary Cecil D. Andrus, Common Cause, Americans for Democratic Action and a bevy of environmental groups—including the Sierra Club and the National Wildlife Federation. Nevertheless, when the House vote was taken 71% of the Democrats voted for retaining the questionable projects. The Republicans, with many more members from Western, water-thirsty states, were slightly more willing to save money, even though it meant siding with President Carter and the ADA: 66% voted for the projects.

NOT A CLASSICAL DIVISION

A more contemporary example of this behavior can be found in the congressional vote on the Gramm-Rudman-Hollings budget-balancing measure. By protecting welfare spending from cuts and mandating dramatic reductions in defense spending, G-R-H's effort to trim the size of government was a pill specifically sugarcoated for liberals. Yet it was not Democrats but Republicans who swallowed it. In the House, only 48% of the Democrats voted for Gramm-Rudman, compared with 86% of the Republicans; in the Senate, the corresponding figures were 50% and 81%.

We do not have a classical left-right division in our politics, with one party generally representing the downtrodden and the other representing the well-to-do. The axis of division today is over the size of the state. Democrats in Congress favor a larger role for government in most things, from broadcasting to barge canals, from child nutrition to Christopher Columbus. Mr. Stockman may have been too close to see it, too frustrated by losing budget battles on the margin, but overall, his former GOP colleagues in Congress are less in favor of this trend, and tend to resist the growth of government across the board.●

NAUM AND INNA MEIMAN: THE RIGHT TO CHOOSE

● Mr. SIMON. Mr. President, we, as Americans, are able to choose where we wish to live. Many of us take this right for granted. Naum and Inna Meiman, a couple living in the Soviet Union, have been denied this right.

For over 10 years, the Meimans have been refused permission to emigrate. They are an elderly, ailing couple. They would like to spend their remaining time in Israel, but the Soviet Government continues to deny this right. The Meimans pose no threat to the Soviet Government, and should be allowed to choose their home.

I implore the officials in the Soviet Union to let the Meimans emigrate to Israel.●

THE BUDGET RESOLUTION

● Mr. KERRY. Mr. President, I rise to speak in support of the immediate movement of the budget resolution to the floor of the Senate for debate and subsequent action. This resolution, which is the result of a strong bipartisan effort within the Budget Committee, provides a responsible base upon which a final budget can be constructed.

During the final days of the 1st session of the 99th Congress we passed the Balanced Budget and Emergency Deficit Control Act of 1985 by an overwhelming margin in both Houses of Congress. By passing this legislation we were stating, out loud, that our previous methods of constructing a budget were not working. No one really disagreed with this since the evidence was clear: runaway deficits, a Federal debt that exceeded $2 trillion and had doubled over the past 5 years, and debt service payments that were consuming almost 15 percent of our total outlays. We were moving in the

wrong direction and very rapidly. By passing this legislation we were also stating that we had a new and better method constructing the budget, Gramm-Rudman-Hollings.

Gramm-Rudman-Hollings set forth a series of requirements in order to accomplish our objective of reversing the negative effects of prior budget decisions. In addition to mandating maximum deficit levels and an across-the-board sequestering mechanism, the act established a timetable to provide for the orderly and comprehensive consideration of budget issues. April 15 was designated as the deadline for passage of the budget resolution by both the Senate and the House of Representatives. This date has passed and the resolution has not been brought to the floor of the Senate even though the committee completed its work and reported out a budget resolution over a month ago. Our vote for Gramm-Rudman-Hollings and its requirements represented a commitment to the American people that we would deal with the budget in a different and more responsible manner. By not acting within the established timetable, we are reneging on that commitment.

I have heard that some of my colleagues in the Senate are not satisfied with this resolution and this has caused the delay. If this is true, I suggest that those Members should propose to change it by offering amendments during the 50 hours scheduled on this issue. I look forward to the opportunity to make these hard choices and I plan to play an active role during this time since I believe that certain changes are necessary.

Mr. President, today in his opening statement the distinguished minority leader commented on the Senate's delay in its consideration of this matter. He stated, "While nothing happens, something bad happens." Senator BYRD was correct in his assessment of the effect of delaying action on this crucial issue. We are at a critical point in the development and implementation of a responsible system of determining the Federal budget. It is irresponsible on our part to continue to delay action on the resolution when we agreed to follow a designated timetable for its consideration.

Our constituents have elected us to generate, and hopefully abide by, responsible legislation, not to avoid making difficult decisions. Consequently, I ask that the budget resolution be brought to the floor as expeditiously as possible for our consideration.●

TRANSITION TO DEMOCRACY IN THE PHILIPPINES

● Mr. DURENBERGER. Mr. President, the recent peaceful transfer of power in the Philippines is an event which Americans can reflect on with pride. With the support of a unified U.S. Government and citizenry, the Philippine people have made a strong and very effective statement about the value of democracy.

And, yet, the new opportunities now available to Filipino people are tempered by the realities of a country which has suffered too long under economic, social, and political neglect. Americans, with their short attention spans on matters of this complexity, must realize that the long struggle toward economic prosperity and political and social justice for all Philippine people has just begun.

Through this struggle, it will be important for the United States to continue to play a supportive and positive role. And it will remain essential that Americans continue to be exposed to the evolution of change, and difficult challenges, facing this valued U.S. ally.

Because of the important record that it provides of the continuing struggle for economic and social justice at this time in the Philippines, I ask that the following two-part series of articles by Frank Wright, foreign correspondent for the Minneapolis Star and Tribune, be printed at this point in the RECORD.

The articles referred to follow:

[From the Minneapolis Star and Tribune, Mar. 30, 1986]

EXPECTATIONS RUN HIGH AS AQUINO DEALS WITH THE RICH AND THE POOR

(By Frank Wright)

MANILA, PHILIPPINES.—Serapio Gabriel and Emil Ong were in the streets as part of the Manila people power that helped lift Corazon Aquino to the presidency of the Philippines.

Now they are part of the revamped—but once again elite—establishment that is helping her run the country, Gabriel as an influential businessman and Ong as a ranking government official.

Many others, most of them poor and oppressed, did not celebrate in the streets of Manilia. Fisherman Boy Cuenco, farmer Warlito Gadia, street vendor and mother Juliette Miguel, factory worker Naz Espiriau and 2-year-old Rodolfo Sarsaba are not part of the new establishment.

The challenge for Aquino is how well, and how soon, she can bring them all together, the rich who once again are in control and the poor who once again are not.

A sharp look at the Philippines and the feelings expressed by its people reveals expectations are high:

Economically, a hunger to close the gap between the fewer than 20 percent of the people who receive more than half the income and the 70 percent who live in poverty.

Politically, a growing demand by the underclasses for a share of the government power that always has been reserved for their alleged betters.

Socially, a strong desire for more independence, personally in terms of human rights guarantees and nationally in terms of freedom from overseas influence.

A thoughtful look at the Philippines also raises the questions of what the United States learned from the recent Philippine experience, and of how the United States, which has been the dominant foreign influence in the islands for practically all of this century, will continue its major presence.

By most standards Aquino has made a promising start toward cleaning up the mess left by Ferdinand Marcos, her deposed predecessor.

She has consolidated her power by deft selection of coalition Cabinet ministers; kept the Marcos faction at bay by disbanding the Marcos-controlled National Assembly until a new constitution is implemented and elections held; put the government bureaucracy on notice that corruption no longer will be tolerated; won early tests to bring the military under her civilian control, and at least temporarily blunted the Communist-led insurgency by releasing several of its former leaders and hundreds of other political prisoners.

But in the long run she will be measured by how well she does in solving the basic economic, political and social problems that existed under Marcos and that still exist today.

It will be a difficult task because the leaders, including Aquino, may well not want to go as far as the people want to go.

Aquino is just beginning. If she succeeds in bringing the establishment and the rest of the country together, a truly unified Philippines may emerge. If she doesn't, signs point to renewed unrest.

The new leadership, while avoiding over-optimism, sees a glimmering future.

Gabriel, executive vice president of Philippine Commercial Credit Card, Inc., the biggest plastic money company in the islands, opposed Marcos for a long time. He had said he considered Marcos a crook and despot who was destroying the economy and the country. Gabriel supported Aquino and protected the ballot boxes as a poll watcher on election day.

When the final uprising started Feb. 22, he said, "I got all the kids together and took them out there to see history in the making. Suddenly, you were proud to be a Filipino again."

As a former president of Manila Rotary, a potent organization in the Philippines, and as a prominent corporation executive, Gabriel will be influential in winning support from the business community.

The problems are complex, and solutions will take time, he said. But, he added, business confidence has been restored, prospects are good and "the people will be patient."

Ong, who managed Aquino's campaign on the islands of Leyte and Samar, also was in the Manila crowd during that climactic weekend. He said he spent three nights outside gate 4 at Camp Aguinaldo, one of the two camps where the military defectors barricaded themselves.

"It was really something to see the people protecting (them)," he said. "The people were crying. The soldiers inside the gate were crying. It was really a miracle."

Now Ong, an attorney and senior member of the family's farming and building supply businesses, is a deputy minister of agriculture. He also has been appointed administrator of the National Food Authority.

His primary tasks are to stabilize prices of cereal grains, particularly rice and sweet corn, and equalize their distribution throughout the islands.

His biggest shock, he said, was discovering that his agency's treasury is virtually bare, allegedly stripped by Marcos to help pay for his reelection campaign. That could cause

serious difficulties, Ong said, because Filipino farmers depend on his agency to buy portions of their crops. He said the government may need additional short-term assistance from lenders such as the International Monetary Fund.

He said he has requested an audit and will tour agency facilities, which include more than 300 offices and warehouses across the country, to assure farmers that the government wants to do well by them. "We need to reach out," he said.

Reaching out will not be simple. Government television recently reported that 23 people were killed in a rebel attack on one of the warehouses in Allacapan, about 250 miles north of Manila. The report said 15 of the dead were guerillas. It was the bloodiest insurgent raid since Aquino took office.

To the Cuencos and others among the poor, most of whom live in the provinces, government changes in Manila can seem far away and of little immediate effect.

Rural and small town people, who comprise almost three-fourths of the population, often are victims of long-standing conditions they did not create, and they are skeptical about improvement even when proposed by people of good will.

Cuenco, 28, an unemployed fisherman in Bula with a wife and two children, remains blacklisted as a troublemaker. He said he was fired last year when he refused his employer's order to charge a fishing crew rent for equipment they had not used.

He and his family live in a shack in a squatters' village next to the shore in southern Mindanao, surviving mostly on rare odd jobs and donations from friends.

"It is hard," he said. "We eat much salted fish. We do not often have delicious food."

Gadia, 24, a farmer driven off his land by fighting between the government and the rebels, still lives in the mud and slop of Alegria Evacuation Center, his family and two others crowded into the same house. About 1,000 families live at the center, a sorry collection of temporary huts near the Mindanao village of Alabel.

Most have come since November, after being ordered from their farms by government soldiers who designated vast areas in the hills as official no-man's lands in order to clear them of suspected rebel supporters.

The farmers now must walk to their farms each day, a trek of two hours each way for some. Time in the fields is shortened because farmers can be out only in daylight lest they be shot as curfew violators and suspected rebels. And they are required to work alone. Crops suffer accordingly. Farmers also sometimes discover that their chickens and hogs have been "liberated" by armed fighters on one side or the other.

Gadia said he came to the center "for the security of my family" after his village suffered two massacres. The residents, he said, "say it was the Marcos military. The military says it was the rebels."

Even at the center, he said, "it is not really safe." Squads of local militia from the Civilian Home Defense Force "prowl at night," Gadia said, and the New Peoples' Army, the Communist-led rebels, once sent in a hit team that shot and killed a "notorious person" suspected of being a government informer.

In addition to security problems, he said, illness is common, health care is virtually nonexistent and the number of children in school is dwindling because fewer parents can afford books and supplies.

Gadia said he had little faith that a change in government will help him, and he has "no idea" when conditions will allow his family to return home.

The nightmares have gone away for Miguel, 45, a mother of nine who was arrested and tortured for three days and nights in 1983 by authorities seeking information about the rebels in central Luzon.

But she still suffers harsh headaches and recurring pain in her neck and shoulders from the blows.

And she has not forgotten, she says, how the military men beat her breasts, battered her knees with rifle butts and three times pointed a gun at her heart and pulled the trigger trying to frighten her into talking.

Or how they strung up her husband with his belt until his tongue hung out and he gasped for air. Because of the torture, Miguel said, he no longer is able to farm. The best he can get is occasional work on a fishing boat.

Espiriau, in his 20s, a factory worker fired for union activities, still lives in Mariveles on the Bataan peninsula, near a memorial garden that marks the starting point of the World War II Death March.

He continues trying to organize fellow workers, three-fourths of them young women in a huge industrial complex where most earn less than the government says they need to feed their families and where employment has dropped 50 percent.

Sarsaba, according to the New York Times, died of malnutrition three weeks ago in the hospital in Bacolod on the island of Negros at the age of 2.

She was the fouth child to die from malnutrition in three weeks in her neighborhood of 350 people. Two others were in the hospital and 23 more were identified by health workers as substantially deficient.

Sometimes as many as 10 children a day die at the hospital for lack of food, doctors said.

Close to 80 percent of school age Filipino children are considered undernourished in a country that has ranked among the top 20 food producing nations in the world.

The important thing to keep in mind about the Philippines is that the real revolution, if there is one, is yet to come.

Getting rid of Marcos was only the first step—and perhaps the easiest—in the transition to the future.

As Aquino and her new government look ahead, they face more questions than answers.

Does she have the will and the vision necessary to reshape the country's foundations, or will she prefer to revise around the margins and retain much of the semi-feudal society that has so bountifully benefitted her family and others among the rich for so long?

If she chooses to make major changes, does she have the skill, perseverance and political support required to succeed?

How long will the people wait before they turn again to the streets in renewed protest over the condition of their lives or turn to the violent solutions offered by the rebel army and the Communists?

The United States also has some sorting out to do:

How much was the U.S. government a part of the problem in the Philippines, which it colonized for the first 40 years of the century and where it either stood by or assisted indirectly as Marcos spent most of the past 20 years ruling and abusing the people with authoritarian power, robbing the economy of estimated billions and helping run what remained into the ground?

What does an analysis of the past say about future military and economic assistance to the Aquino administration, U.S. attitudes toward the large American military bases in the Philippines and other bilateral issues?

What new guidelines for U.S. relations with other developing nations can be drawn from the Philippines, where the United States stayed with a fading ruler unwilling to change and abandoned him only as his own people were pushing him out the door?

The discussion is just starting.

POLICY LESSONS FOR UNITED STATES REMAIN UNCLEAR

(By Frank Wright)

The Philippine episode has reopened an old debate about U.S. foreign policy.

The issue can be put simply: How and when should the United States, as a democratic world power, intervene in the affairs of smaller and less powerful nations, especially those ruled by despots?

Numerous scholars, policymakers, would-be policymakers and advocates with and without portfolio are searching for the broad lessons of those emotional days in which the people of the Philippines, with some help from their church, military defectors and a U.S. president who stayed out of the way, dumped President Ferdinand Marcos and replaced him with Carazon Aquino.

But examination of the post-up-heaval rhetoric makes it clear there is little consensus on what is to be learned from the experience and how it can be applied to other situations.

One sentiment that does come through is that the United States should be more alert to spotting moderate opposition in such countries and more eager to provide early encouragement in the interests of spreading freedom and deterring dictatorships of whatever stripe.

To some extent, that is the message behind President Reagan's post-Haiti and Post-Philippine declaration that the United States henceforth will oppose tyrants of the political right as well as those of the left. Reagan's previous orientation was to destabilize governments on the left while supporting those on the right in the interests of anti-Communism.

Beyond that, however, divergence reigns about the lessons from the Philippines. Some analysts and activists, usually those toward one end of the political spectrum or the other, say it would be good for the sake of consistency to take a single approach to all situations. They seem inclined toward more intervention in despotic countries rather than less.

Others, usually in the middle, are more cautious about interventionist solutions and say the best that can be hoped for is to understand our own interests and to be pragmatic, innovative and knowledgeable about the details of every situation because each will be different.

One of the few underlying themes in the discussion is that the future will be increasingly complicated because the United States probably is going to face the intervention issue with increasing frequency if only because the Third World—and its myriad countries struggling under various forms of government—is forcing its way more and more into the American consciousness.

Individually, these countries become centers of extraordinary attention and significance whenever the United States or the Soviet Union, or both, turn one of them into an East-West battle ground—politically,

militarily or economically. As in Angola. Or Nicaragua.

Collectively, they also are hard to ignore, as in the often anti-U.S. majority their growing number sometimes creates at the United Nations.

Lack of consensus about what has happened in the past, in this case in the Philippines, contributes to the lack of consensus about a future course. One's perception of that history depends in part on one's vantage point.

The prevailing American view of the U.S. presence in the Philippines for most of this century is that it was very much a good thing for the Philippines. Emphasis in this version is on a strong education system and high literacy levels, improved health care, the introduction of democratic governmental institutions, economic cooperation and a people-to-people friendship that saw Americans and Filipinos fight side-by-side against the Japanese invaders in World War II and that since has seen about 2 million Filipinos emigrate to the United States.

But there are many Filipinos and some Americans who hold a different view. They accuse the United States of suffering from historical amnesia, contending that most history of the Philippines is written by Americans from a Western view and that it plays down the negative aspects of the U.S. role.

For example, American students often are taught little about the U.S. acquisition of the Philippines other than that the country was ceded to the United States as a result of the U.S. victory in the Spanish-American War. Spain had colonized the Philippines in the 16th century.

All but overlooked is the fact that the United States at the time refused to recognize a Filipino rebellion that virtually had driven the Spaniards out. Instead, the United States spent four years conquering the Philippines. The war killed tens of thousands of U.S. soldiers, killed many times more Filipinos and prompted a Vietnam-like protest in the United States led by the likes of William Jennings Bryan. This view of the history sees the Spanish-American influence as robbing the Filipinos of their Asian heritage and identity and forcing them into a dependency that has left them poor economically and otherwise.

A similar difference in vantage point seems to contribute to the varying views of just who was responsible for what in the recent overthrow.

Reagan, official Washington and journalists in Washington tend to give the United States more credit for engineering Marcos' downfall than it gets from people in the Philippines, including foreign journalists and other foreign observers.

Washington contends that Marcos, in the early days of his 20-year regime, was well-liked by the people and was something of a reformer, remained popular for a time even after declaring martial law in 1972 and had lost support only in the past few years, at which point the United States pressured him to reform and, finally, turned its back on him when he refused.

Many Filipinos and some U.S. experts acknowledge Marcos' early popularity but argue that the United States, by continuing its economic, military and psychological support for Marcos for years after he declared martial law, contributed to the subjugation of the Philippine people, failed to encourage the moderate opposition at crucial early moments and stood by the despot far too long.

Those who hold this view give virtually all of the credit for the overthrow to the throngs that faced down divided and shaky military forces when Marcos ordered them to attack, an event that has to be one of the greatest victories in history for nonviolence. Some credit, especially for critical timing, is given to the military leaders who defected. Some is given to the Roman Catholic church hierarchy for its support of Aquino as the crisis approached. Little credit is given to the United States.

Those who minimize Reagan's role in deposing Marcos tend to doubt his enthusiasm for rocking right-wing boats in the future. They describe his declaration as simply an opportunistic political move to attract support from congressional liberals for his proposal to send $100 million in new aid to the anti-Sandinista rebels in Nicaragua.

Reagan spokesmen acknowledge a certain political motive, but they also say the declaration is sincere.

A key test will come in South Korea, a long-time and heavily supported U.S. ally in Asia run in autocratic fashion similar to the Marcos Philippines. The military has even greater control of the society in South Korea.

Human rights groups have registered protests. A newly developing political opposition that professes to seek greater democracy is taking heart from the Marcos-Aquino episode. The Catholic hierarchy is beginning to speak up. The South Korean government, apparently nervous about what happened in the Philippines, has loosened slightly its restrictions on dissidents.

For some time the United States has been prodding here and there for more democracy but has been unwilling to take drastic actions that might seriously erode the anti-Communist regime of President Chun Doo Hwan.

Elections are scheduled for early 1988.●

DR. JAMES I. McCORD

● Mr. BRADLEY. Mr. President, I am pleased to offer my congratulations to Dr. James I. McCord, who was recently awarded the prestigious Templeton Prize for Progress in Religion for his work as an educator. The prize carries with it a cash award of $250,000, which Dr. McCord has announced will substantially be used to endow the Center of Theological Inquiry at Princeton.

Dr. McCord, who served as president of the Princeton Theological Seminary in New Jersey from 1959–82, is now the chancellor of the Center of Theological Inquiry, a religious advanced research center modeled after Princeton's Institute for Advanced Studies. The center, founded by Dr. McCord in 1982, offers scholars an opportunity to do theological research on a full-time basis.

Dr. McCord has also devoted part of his career toward finding agreement among different religious denominations. He has headed the World Alliance of Reformed Churches and the Consultation on Church Union, whose goal was to merge 10 Protestant denominations.

The award will be presented formally to Dr. McCord on May 13 by Princess Alexandra of Great Britain. The award has been presented to 13 recipients in the past, including Mother Teresa, Reverend Billy Graham, and Alexander Solzhenitsyn.

I extend my very best wishes to Dr. McCord on this special occasion and wish him much continued success in the future. His efforts to establish a dialogue between scientists and theologians is particularly timely.●

ORDERS FOR FRIDAY

RECESS UNTIL 11 A.M.

Mr. DOLE. Mr. President, I ask unanimous consent that once the Senate completes its business today it stand in recess until the hour of 11 a.m. on Friday, April 18, 1986.

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

RECOGNITION OF CERTAIN SENATORS

Mr. DOLE. Mr. President, I further ask unanimous consent that following the recognition of the two leaders under the standing order, there be special orders in favor of the following Senators for not to exceed 5 minutes each:

Senators HAWKINS, PROXMIRE, CRANSTON, and DURENBERGER.

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

ROUTINE MORNING BUSINESS

Mr. DOLE. Mr. President, following the special orders just identified, I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond the hour of 12 noon, with Senators permitted to speak therein for not more than 5 minutes each.

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

PROGRAM

Mr. DOLE. Mr. President, at 12 noon, the Senate may be asked to turn to the consideration of any of the following items:

S. 49, the gun control bill; Senate Concurrent Resolution 120, the budget resolution; the motion to proceed to S. 1848, the drug export bill; and the executive nomination of Donald M. Newman, and possibly the daylight savings time amendment to the fire protection bill, S. 2180.

The RECORD is already clear: there will be no votes tomorrow. If anything is brought up it will be for debate only.

I would not expect we would be in session very long tomorrow.

Mr. BYRD. Mr. President, if I may, if the majority leader will yield, is the distinguished majority leader in a position to say what the Senate might expect or what our colleagues might expect with respect to rollcall votes on Monday?

Mr. DOLE. I think they can expect, in fact, there will be no rollcall votes on Monday. Again, if it is the budget we are on, we will have a lot of debate up front. If it is the gun control bill we are on, I understand we will have a lot of debate up front. I think I indicated earlier to the distinguished minority leader that there would be no votes on Monday.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

RECESS UNTIL 11 A.M. TOMORROW

Mr. DOLE. Mr. President, there being no further business to come before the Senate, I move that the Senate stand in recess until the hour of 11 a.m. on Friday, April 18, 1986.

The motion was agreed to; and, at 6:46 p.m., the Senate recessed until Friday, April 18, 1986, at 11 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate April 17, 1986:

INTER-AMERICAN FOUNDATION

Richard Thomas McCormack, of Pennsylvania, to be a member of the Board of Directors of the Inter-American Foundation for the remainder of the term expiring September 20, 1988.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.