SENATE—*Tuesday, May 6, 1986*

(Legislative day of Monday, May 5, 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.

Almighty God, Lord of history and the nations, we are profoundly grateful for the political system envisioned and crafted by our Founding Fathers. Despite its many weaknesses, it has proved to be the best system in history in terms of freedom, human rights, and the public welfare. Increasing congressional activity, with longer legislative sessions, creates a dichotomy between normal business in Washington and elections at home, which imposes an inescapable ambivalence on an incumbent running for reelection. He must give attention to business as usual in the Senate and lengthening campaigns in the State. We pray that Thou will grant special wisdom and endurance to the Senators who must ride these two horses at once. Guide their campaign staff, provide the necessary funds, and enable them to conduct the very best campaign possible as they divide their time and energy between here and home. Be with their families who suffer the pressures in such a situation. In Your name we pray, O Lord, from Whom flows all authority and power. 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 in favor of Senators HAWKINS, CRANSTON, SYMMS, PROXMIRE, and MURKOWSKI. Senator MURKOWSKI will read Senator HAWKINS' special order.

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 a.m., with statements limited therein to 5 minutes each.

Following morning business, the Senate could be asked to turn to any of the following items: S. 49 or Senate Joint Resolution 316. Also, it is my understanding that another nomination may be cleared today. If that is the case, it is my understanding that will not require a rollcall vote and we can take care of that.

At 2 o'clock, the vote will occur on the confirmation of James Fletcher to be Administrator of NASA. I would guess that rollcall votes can be expected throughout the day.

TAX REFORM BILL

Mr. President, let me also indicate that the Senate Finance Committee will probably complete action today or tomorrow on a sweeping tax reform bill. I would again commend the distinguished chairman of the committee, Senator PACKWOOD, and the Republicans and Democrats on the committee. In my view, if certain matters are worked out, if the bill does not lose some of its appeal today with a lot of amendments that will raise the rates, the corporate rates and individual rates, it would be my hope that there could be a bill reported by the committee today, and, if not today, tomorrow. Completion today or tomorrow would then give the committee staff and the Joint Committee on Taxation a couple of weeks to put the bill together.

It is quite possible that with some luck we could have the tax reform bill before the Senate when we come back from the so-called Memorial Day recess. If that is the case, it will have a priority as far as moving it through the Senate so that we can get to conference and hopefully can get together on real tax reform.

Again, I underscore the fact that the bill now in the committee is tax reform. It certainly, I think, will be appealing to many, many Americans when they recognize there will be 2 rates instead of 14. One 15 percent rate will take care of about 80 percent of the taxpayers. The other rate, the 27 percent rate, is the top rate. In 1980, the top rate was dramatically higher. So that will be a big, big reduction in the top rate.

To pay for it, there are a lot of loopholes which have been closed and a lot of tax shelters in effect eliminated.

There are some other changes such as repealing the investment tax credit. I think overall it is essentially a step in the right direction. It does have strong bipartisan support in the committee. It is not a partisan measure at all. I think right now there is about an equal number of Republicans and Democrats who support it. It may be that before the day is out we will have nearly a unanimous agreement in the committee.

On the other hand, the tax bill could fall apart, but I think the odds are against that.

SAUDI ARABIA ARMS SALE

Mr. President, I have been trying to work out an agreement with Senator CRANSTON. I know he is very anxious to bring up the Saudi arms sale. I am prepared to continue those negotiations. I want to leave the floor, but I do not want the Senator from California to call it up. I am tempted to lay before the Senate a message from the House on S. 49, the gun control bill, unless we can have some agreement. We could continue to try to work out a time agreement on S. 49.

Does the Senator from California have any help to offer on that?

Mr. CRANSTON. I am not a principal in the matter of the gun control bill, as the majority leader knows. I do not believe it is possible, from what I hear from those who are involved in that, to work out a time agreement on that measure today. Senator METZENBAUM has indicated to the majority leader and to me that he does not plan to filibuster. Presumably, it could be handled in a reasonably short time, and I would presume could be finished during the course of this week.

Mr. DOLE. I guess it would be helpful to the leader if I could have some assurance from the Senator from California that we would continue to try to resolve this. We have a vote at 2 o'clock on the Fletcher nomination. If we have not resolved it by then, we will have to proceed one way or another.

Does the Senator have objection to that?

Mr. CRANSTON. Mr. President, I would be glad to wait until 2 o'clock before I make a motion to proceed, provided that at that time it is understood we would have an opportunity to deal with it until it is finished. We would not need the 10 hours. I could agree with the majority leader to a shorter time, like 3 hours. I think we could handle it in that time. It is important to finish the legislation because the clock is running on the time in which we should deal with it.

Mr. DOLE. I think we have until Thursday at midnight. There would still be time to dispose of S. 49, the gun control bill. If that were laid

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

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before the Senate, I think we could finish that today and still take up the Saudi arms sale well before the Thursday midnight deadline.

I cannot agree that we should be permitted to proceed to that at 2 o'clock. Maybe it is just best to lay before the Senate S. 49, the gun control bill.

FIREARMS OWNERS' PROTECTION ACT

The PRESIDING OFFICER (Mr. GORTON) laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 49) entitled "An Act to protect firearms owners' constitutional rights, civil liberties, and rights to privacy", do pass with the following Amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE AND CONGRESSIONAL FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Firearms Owners' Protection Act".

(b) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the rights of citizens—

(A) to keep and bear arms under the second amendment to the United States Constitution;

(B) to security against illegal and unreasonable searches and seizures under the fourth amendment;

(C) against uncompensated taking of property, double jeopardy, and assurance of due process of law under the fifth amendment; and

(D) against unconstitutional exercise of authority under the ninth and tenth amendments;

require additional legislation to correct existing firearms statutes and enforcement policies; and

(2) additional legislation is required to reaffirm the intent of the Congress, as expressed in section 101 of the Gun Control Act of 1968, that "it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trapshooting, target shooting, personal protection, or any other lawful activity, and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes.".

SEC. 101. AMENDMENTS TO SECTION 921.

Section 921 of title 18, United States Code, is amended—

(1) in subsection (a)(10), by striking out "manufacture of" and inserting in lieu thereof "business of manufacturing";

(2) in subsection (a)(11)(A), by striking out "or ammunition";

(3) in subsection (a)(12), by striking out "or ammunition";

(4) in subsection (a)(13), by striking out "or ammunition";

(5) by amending paragraph (20) of subsection (a) to read as follows:

"(20) The term 'crime punishable by imprisonment for a term exceeding one year' does not include—

"(A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or

"(B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms."; and

(6) in subsection (a), by inserting after paragraph (20) the following new paragraphs:

"(21) The term 'engaged in the business' means—

"(A) as applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured;

"(B) as applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;

"(C) as applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;

"(D) as applied to a dealer in firearms, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, but such term shall not include a person who makes occasional repairs of firearms, or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;

"(E) as applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and

"(F) as applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

"(22) The term 'with the principal objective of livelihood and profit' means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection.

"(23) The term 'machinegun' has the meaning given such term in section 5845(b) of the National Firearms Act (26 U.S.C. 5845(b)).

"(24) The terms 'firearm silencer' and 'firearm muffler' mean any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.".

SEC. 102. AMENDMENTS TO SECTION 922.

Section 922 of title 18, United States Code, is amended—

(1) so that paragraph (1) of subsection (a) reads as follows:

"(1) for any person—

"(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

"(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;";

(2) in subsection (a)(2)—

(A) by striking out "or ammunition"; and

(B) by striking out "or licensed dealer for the sole purpose of repair or customizing;" and inserting in lieu thereof "licensed dealer, or licensed collector;";

(3) in subsection (a)(3), by striking out "(B)" and all that follows through "(b)(3) of this section," and inserting in lieu thereof the following: "(B) shall not apply to the transportation or receipt of a firearm obtained in conformity with subsection (b)(3) of this section,";

(4) in subsection (b)—

(A) in paragraph (2), by striking out "or ammunition" each place it appears;

(B) in paragraph (3), by striking out "(A)" and all that follows through "intrastate transactions other than at the licensee's business premises," and inserting in lieu thereof "(A) shall not apply to the sale or delivery of any rifle or shotgun to a resident of a State other than a State in which the licensee's place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States),";

(C) in paragraph (3), by inserting "and" before "(B)";

(D) in paragraph (3), by striking out ", and (C)" and all that follows through the end of such paragraph and inserting in lieu thereof a semicolon; and

(E) in paragraph (5), by striking out "or ammunition except .22 caliber rimfire ammunition" and inserting "or armor-piercing ammunition" in lieu thereof;

(5) in subsection (d)—

(A) by striking out "licensed importer, licensed manufacturer, licensed dealer, or licensed collector" the first place it appears and inserting in lieu thereof "person";

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

"(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));";

(C) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(D) by inserting after paragraph (4) the following:

"(5) who, being an alien, is illegally or unlawfully in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who, having been a citizen of the United States, has renounced his citizenship.";

(6) in subsection (g)—

(A) in paragraph (1), by striking out "is under indictment for, or who";

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

"(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));";

(C) by inserting after paragraph (4) the following new paragraphs:

"(5) who, being an alien, is illegally or unlawfully in the United States;

"(6) who has been discharged from the Armed Forces under dishonorable conditions; or

"(7) who, having been a citizen of the United States, has renounced his citizenship;"; and

(D) by striking out "to ship or transport any firearm or ammunition in interstate or foreign commerce." and inserting in lieu thereof "to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.";

(7) so that subsection (h) reads as follows:

"(h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment—

"(1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or

"(2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.";

(8) by inserting after subsection (m) the following:

"(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce."; and

(9) by inserting after the subsection added by paragraph (8) of this section the following:

"(o)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

"(2) This subsection does not apply with respect to—

"(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

"(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.".

SEC. 103. AMENDMENTS TO SECTION 923.

Section 923 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out the first sentence and inserting in lieu thereof "No person shall engage in the business of importing, manufacturing, or dealing in firearms, or importing or manufacturing ammunition, until he has filed an application with and received a license to do so from the Secretary."; and

(B) by striking out "and contain such information", and inserting in lieu thereof "and contain only that information necessary to determine eligibility for licensing.";

(2) in subsection (a)(3)(B), by striking out "or ammunition for firearms other than destructive devices,";

(3) in subsection (b), by striking out "and contain such information" and inserting in lieu thereof "and contain only that information necessary to determine eligibility";

(4) in subsection (c), by adding at the end "Nothing in this chapter shall be construed to prohibit a licensed manufacturer, importer, or dealer from maintaining and disposing of a personal collection of firearms, subject only to such restrictions as apply in this chapter to dispositions by a person other than a licensed manufacturer, importer, or dealer. If any firearm is so disposed of by a licensee within one year after its transfer from his business inventory into such licensee's personal collection or if such disposition or any other acquisition is made for the purpose of willfully evading the restrictions placed upon licensees by this chapter, then such firearm shall be deemed part of such licensee's business inventory.";

(5) in subsection (e), by inserting "willfully" before "violated";

(6) in subsection (f)—

(A) in paragraph (3)—

(i) by inserting "de novo" before "judicial"; and

(ii) by inserting "whether or not such evidence was considered at the hearing held under paragraph (2)." after "to the proceeding"; and

(B) by adding at the end the following new paragraph:

"(4) If criminal proceedings are instituted against a licensee alleging any violation of this chapter or of rules or regulations prescribed under this chapter, and the licensee is acquitted of such charges, or such proceedings are terminated, other than upon motion of the Government before trial upon such charges, the Secretary shall be absolutely barred from denying or revoking any license granted under this chapter where such denial or revocation is based in whole or in part on the facts which form the basis of such criminal charges. No proceedings for the revocation of a license shall be instituted by the Secretary more than one year after the filing of the indictment or information.";

(7) so that subsection (g) reads as follows:

"(g)(1)(A) Each licensed importer, licensed manufacturer, and licensed dealer shall maintain such records of importation, production, shipment, receipt, sale, or other disposition of firearms at his place of business for such period, and in such form, as the Secretary may by regulations prescribe. Such importers, manufacturers, and dealers shall not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as expressly required by this section. The Secretary, when he has reasonable cause to believe a violation of this chapter has occurred and that evidence thereof may be found on such premises, may, upon demonstrating such cause before a Federal magistrate and securing from such magistrate a warrant authorizing entry, enter during business hours the premises (including places of storage) of any licensed firearms importer, licensed manufacturer, licensed dealer, licensed collector, or any licensed importer or manufacturer of ammunition, for the purpose of inspecting or examining—

"(i) any records or documents required to be kept by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector under this chapter or rules or regulations under this chapter, and

"(ii) any firearms or ammunition kept or stored by such licensed importer, licensed manufacturer, licensed dealer, or licensed collector, at such premises.

"(B) The Secretary may inspect or examine the inventory and records of a licensed importer, licensed manufacturer, or licensed dealer without such reasonable cause or warrant—

"(i) in the course of a reasonable inquiry during the course of a criminal investigation of a person or persons other than the licensee;

"(ii) for ensuring compliance with the record keeping requirements of this chapter not more than once during any twelve-month period; or

"(iii) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

"(C) The Secretary may inspect the inventory and records of a licensed collector without such reasonable cause or warrant—

"(i) for ensuring compliance with the record keeping requirements of this chapter not more than once during any twelve-month period; or

"(ii) when such inspection or examination may be required for determining the disposition of one or more particular firearms in the course of a bona fide criminal investigation.

"(D) At the election of a licensed collector, the annual inspection of records and inventory permitted under this paragraph shall be performed at the office of the Secretary designated for such inspections which is located in closest proximity to the premises where the inventory and records of such licensed collector are maintained. The inspection and examination authorized by this paragraph shall not be construed as authorizing the Secretary to seize any records or other documents other than those records or documents constituting material evidence of a violation of law. If the Secretary seizes such records or documents, copies shall be provided the licensee within a reasonable time. The Secretary may make available to any Federal, State, or local law enforcement agency any information which he may obtain by reason of this chapter with respect to the identification of persons prohibited from purchasing or receiving firearms or ammunition who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition, and he may provide information to the extent such information may be contained in the records required to be maintained by this chapter, when so requested by any Federal, State, or local law enforcement agency.

"(2) Each licensed collector shall maintain in a bound volume the nature of which the Secretary may by regulations prescribe, records of the receipt, sale, or other disposition of firearms. Such records shall include the name and address of any person to whom the collector sells or otherwise dis-

poses of a firearm. Such collector shall not be required to submit to the Secretary reports and information with respect to such records and the contents thereof, except as expressly required by this section.

"(3) Each licensee shall prepare a report of multiple sales or other dispositions whenever the licensee sells or otherwise disposes of, at one time or during any five consecutive business days, two or more pistols, or revolvers, or any combination of pistols and revolvers totalling two or more, to an unlicensed person. The report shall be prepared on a form specified by the Secretary and forwarded to the office specified thereon not later than the close of business on the day that the multiple sale or other disposition occurs.

"(4) Where a firearms or ammunition business is discontinued and succeeded by a new licensee, the records required to be kept by this chapter shall appropriately reflect such facts and shall be delivered to the successor. Where discontinuance of the business is absolute, such records shall be delivered within 30 days after the business discontinuance to the Secretary. However, where State law or local ordinance requires the delivery of records to other responsible authority, the Secretary may arrange for the delivery of such records to such other responsible authority.

"(5)(A) Each licensee shall, when required by letter issued by the Secretary, and until notified to the contrary in writing by the Secretary, submit on a form specified by the Secretary, for periods and at the times specified in such letter, all record information required to be kept by this chapter or such lesser record information as the Secretary in such letter may specify.

"(B) The Secretary may authorize such record information to be submitted in a manner other than that prescribed in subparagraph (A) of this paragraph when it is shown by a licensee that an alternate method of reporting is reasonably necessary and will not unduly hinder the effective administration of this chapter. A licensee may use an alternate method of reporting if the licensee describes the proposed alternate method of reporting and the need therefor in a letter application submitted to the Secretary, and the Secretary approves such alternate method of reporting."; and

(8) so that subsection (j) reads as follows:

"(j) A licensed importer, licensed manufacturer, or licensed dealer may, under rules or regulations prescribed by the Secretary, conduct business temporarily at a location other than the location specified on the license if such temporary location is the location for a gun show or event sponsored by any national, State, or local organization, or any affiliate of any such organization devoted to the collection, competitive use, or other sporting use of firearms in the community, and such location is in the State which is specified on the license. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the licensee and retained on the location specified on the license. Nothing in this subsection shall authorize any licensee to conduct business in or from any motorized or towed vehicle. Notwithstanding the provisions of subsection (a) of this section, a separate fee shall not be required of a licensee with respect to business conducted under this subsection. Any inspection or examination of inventory or records under this chapter by the Secretary at such temporary location shall be limited to inventory consisting of, or records relating to, firearms held or disposed at such temporary location. Nothing in this subsection shall be construed to authorize the Secretary to inspect or examine the inventory or records of a licensed importer, licensed manufacturer, or licensed dealer at any location other than the location specified on the license. Nothing in this subsection shall be construed to diminish in any manner any right to display, sell, or otherwise dispose of firearms or ammunition, which is in effect before the date of the enactment of the Firearms Owners' Protection Act.".

SEC. 104. AMENDMENTS TO SECTION 924.

(a) IN GENERAL.—Section 924 of title 18, United States Code, is amended—

(1) so that subsection (a) reads as follows:

"(a)(1) Except as otherwise provided in paragraph (2) of this subsection, subsection (b) or (c) of this section, or in section 929, whoever—

"(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

"(B) knowingly violates subsection (a)(4), (a)(6), (f), (g), (i), (j), or (k) of section 922;

"(C) knowingly imports or brings into the United States or any possession thereof any firearm or ammunition in violation of section 922(1); or

"(D) willfully violates any other provision of this chapter,

shall be fined not more than $5,000, imprisoned not more than five years, or both, and shall become eligible for parole as the Parole Commission shall determine.

"(2) Any licensed dealer, licensed importer, licensed manufacturer, or licensed collector who knowingly—

"(A) makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or

"(B) violates subsection (m) of section 922,

shall be fined not more than $1,000, imprisoned not more than one year, or both, and shall become eligible for parole as the Parole Commission shall determine.";

(2) in subsection (c)—

(A) by inserting "(1)" before "Whoever,";

(B) by striking out "violence" each place it appears and inserting in lieu thereof "violence or drug trafficking crime,";

(C) by inserting "or drug trafficking crime" before "in which the firearm was used or carried.";

(D) in the first sentence, by striking out the period at the end and inserting in lieu thereof ", and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to imprisonment for ten years.";

(E) in the second sentence, by striking out the period at the end and inserting in lieu thereof ", and if the firearm is a machinegun, or is equipped with a firearm silencer or firearm muffler, to imprisonment for twenty years."; and

(F) by adding at the end the following:

"(2) For purposes of this subsection, the term 'drug trafficking crime' means any felony violation of Federal law involving the distribution, manufacture, or importation of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(3) For purposes of this subsection the term 'crime of violence' means an offense that is a felony and—

"(A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or

"(B) that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.";

(3) by amending subsection (d) to read as follows:

"(d)(1) Any firearm or ammunition involved in or used in any knowing violation of subsection (a)(4), (a)(6), (f), (g), (h), (i), (j), or (k) of section 922, or knowing importation or bringing into the United States or any possession thereof any firearm or ammunition in violation of section 922(l), or knowing violation of section 924, or willful violation of any other provision of this chapter or any rule or regulation promulgated thereunder, or any violation of any other criminal law of the United States, or any firearm or ammunition intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5845(a) of that Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter: Provided, That upon acquittal of the owner or possessor, or dismissal of the charges against him other than upon motion of the Government prior to trial, the seized firearms or ammunition shall be returned forthwith to the owner or possessor or to a person delegated by the owner or possessor unless the return of the firearms or ammunition would place the owner or possessor or his delegate in violation of law. Any action or proceeding for the forfeiture of firearms or ammunition shall be commenced within one hundred and twenty days of such seizure.

"(2)(A) In any action or proceeding for the return of firearms or ammunition seized under the provisions of this chapter, the court shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

"(B) In any other action or proceeding under the provisions of this chapter, the court, when it finds that such action was without foundation, or was initiated vexatiously, frivolously, or in bad faith, shall allow the prevailing party, other than the United States, a reasonable attorney's fee, and the United States shall be liable therefor.

"(C) Only those firearms or quantities of ammunition particularly named and individually identified as involved in or used in any violation of the provisions of this chapter or any rule or regulation issued thereunder, or any other criminal law of the United States or as intended to be used in any offense referred to in paragraph (3) of this subsection, where such intent is demonstrated by clear and convincing evidence, shall be subject to seizure, forfeiture, and disposition.

"(D) The United States shall be liable for attorneys' fees under this paragraph only to the extent provided in advance by appropriation Acts.

"(3) The offenses referred to in paragraphs (1) and (2)(C) of this subsection are—

"(A) any crime of violence, as that term is defined in section 924(c)(3) of this title;

"(B) any offense punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

"(C) any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title, where the firearm or ammunition intended to be used in any such offense is involved in a pattern of activities which includes a violation of any offense described in section 922(a)(1), 922(a)(3), 922(a)(5), or 922(b)(3) of this title;

"(D) any offense described in section 922(d) of this title where the firearm or ammunition is intended to be used in such offense by the transferor of such firearm or ammunition;

"(E) any offense described in section 922(i), 922(j), 922(l), 922(n), or 924(b) of this title; and

"(F) any offense which may be prosecuted in a court of the United States which involves the exportation of firearms or ammunition."; and

(4) by adding at the end the following new subsection:

"(e)(1) In the case of a person who violates section 922(g) of this title and has three previous convictions by any court referred to in section 922(g)(1) of this title for robbery or burglary, or both, such person shall be fined not more than $25,000 and imprisoned not less than fifteen years, and, notwithstanding any other provision of law, the court shall not suspend the sentence of, or grant a probationary sentence to, such person with respect to the conviction under section 922(g), and such person shall not be eligible for parole with respect to the sentence imposed under this subsection.

"(2) As used in this subsection—

"(A) the term 'robbery' means any crime punishable by a term of imprisonment exceeding one year and consisting of the taking of the property of another from the person or presence of another by force or violence, or by threatening or placing another person in fear that any person will imminently be subjected to bodily harm; and

"(B) the term 'burglary' means any crime punishable by a term of imprisonment exceeding one year and consisting of entering or remaining surreptitiously within a building that is the property of another with intent to engage in conduct constituting a Federal or State offense.".

(b) CONFORMING REPEAL.—Title VII of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. App. 1201 et seq.) is repealed.

SEC. 105. AMENDMENTS TO SECTION 925.

Section 925 of title 18, United States Code, is amended—

(1) in subsection (c)—

(A) by striking out "has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this chapter or of the National Firearms Act)" and inserting in lieu thereof "is prohibited from possessing, shipping, transporting, or receiving firearms or ammunition";

(B) by inserting "transportation," after "shipment,";

(C) by striking out "and incurred by reason of such conviction"; and

(D) by inserting "Any person whose application for relief from disabilities is denied by the Secretary may file a petition with the United States district court for the district in which he resides for a judicial review of such denial. The court may in its discretion admit additional evidence where failure to do so would result in a miscarriage of justice." after "the public interest."; and

(2) in subsection (d)—

(A) by striking out "may authorize" and inserting in lieu thereof "shall authorize";

(B) by striking out "the person importing or bringing in the firearm or ammunition establishes to the satisfaction of the Secretary that";

(C) in paragraph (3), by inserting before the semicolon ", except in any case where the Secretary has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled"; and

(D) by striking out "may permit" and inserting in lieu thereof "shall permit".

SEC. 106. AMENDMENTS TO SECTION 926.

Section 926 of title 18 of the United States Code is amended—

(1) by inserting "(a)" before "The Secretary" the first place it occurs;

(2) by inserting "only" after "prescribe";

(3) by striking out "as he deems reasonably" and inserting in lieu thereof "as are";

(4) by striking out the last sentence and inserting in lieu thereof "No such rule or regulation prescribed after the date of the enactment of the Firearms Owners' Protection Act may require that records required to be maintained under this chapter or any portion of the contents of such records, be recorded at or transferred to a facility owned, managed, or controlled by the United States or any State or any political subdivision thereof, nor that any system of registration of firearms, firearms owners, or firearms transactions or dispositions be established. Nothing in this section expands or restricts the Secretary's authority to inquire into the disposition of any firearm in the course of a criminal investigation."; and

(5) by adding at the end the following:

"(b) The Secretary shall give not less than ninety days public notice, and shall afford interested parties opportunity for hearing, before prescribing such rules and regulations.

"(c) The Secretary shall not prescribe rules or regulations that require purchasers of black powder under the exemption provided in section 845(a)(5) of this title to complete affidavits or forms attesting to that exemption.".

SEC. 107. TRANSPORTATION OF FIREARMS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting between section 926 and section 927 the following new section:

"§ 926A. Interstate transportation of firearms

"Any person not prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport an unloaded, not readily accessible firearm in interstate commerce notwithstanding any provision of any legislation enacted, or any rule or regulation prescribed by any State or political subdivision thereof.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 44 of title 18, United States Code, is amended by inserting between the item relating to section 926 and the item relating to section 927 the following new item:

"926A. Interstate transportation of firearms.".

SEC. 108. AMENDMENTS TO SECTION 929.

Section 929(a) of title 18, United States Code, is amended—

(1) by inserting "(1)" before "Whoever,";

(2) by striking out "violence" each place it appears and inserting in lieu thereof "violence or drug trafficking crime,"; and

(3) by adding at the end the following:

"(2) For purposes of this subsection, the term 'drug trafficking crime' means any felony violation of Federal law involving the distribution, manufacture, or importation of any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

SEC. 109. AMENDMENT OF NATIONAL FIREARMS ACT.

(a) Section 5845(b) of the National Firearms Act (26 U.S.C. 5845(b)) is amended by striking out "any combination of parts designed and intended for use in converting a weapon into a machinegun," and inserting in lieu thereof "any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun,".

(b) CONFORMING AMENDMENT.—Section 5845(a)(7) of the National Firearms Act (26 U.S.C. 5845(a)(7)) is amended to read "(7) any silencer (as defined in section 921 of title 18, United States Code);".

SEC. 110. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act shall become effective one hundred and eighty days after the date of the enactment of this Act. Upon their becoming effective, the Secretary shall publish and provide to all licensees a compilation of the State laws and published ordinances of which licensees are presumed to have knowledge pursuant to chapter 44 of title 18, United States Code, as amended by this Act. All amendments to such State laws and published ordinances as contained in the aforementioned compilation shall be published in the Federal Register, revised annually, and furnished to each person licensed under chapter 44 of title 18, United States Code, as amended by this Act.

(b) PENDING ACTIONS, PETITIONS, AND APPELLATE PROCEEDINGS.—The amendments made by sections 103(6)(B), 105, and 107 of this Act shall be applicable to any action, petition, or appellate proceeding pending on the date of the enactment of this Act.

(c) MACHINEGUN PROHIBITION.—Section 102(9) shall take effect on the date of the enactment of this Act.

Amend the title so as to read: "An Act to amend chapter 44 (relating to firearms) of title 18, United States Code, and for other purposes.".

□ 1010

Mr. DOLE. Mr. President, let me also indicate that it is still my hope that we can reach some time agreement on this bill. If that is the case, I am perfectly willing to set aside the matter now pending.

I also understand that the Senator from California could move to displace it, but that would present a dilemma for many of our colleagues who do not want to be displacing this particular piece of legislation. So I hope we can work out a time agreement. Since I cannot have any assurance of that. I am proceeding in this fashion.

Mr. CRANSTON. Mr. President, will the majority leader yield?

Mr. DOLE. Yes, Mr. President.

Mr. CRANSTON. Is there any particular time compulsion with regard to the gun bill, like the clock we have

running on the expedited procedures on the Saudi arms sale?

Mr. DOLE. Mr. President, I am not asking for an iron-tight agreement, only some assurance that we could complete it in a day or a day and a half and finish it this week. I think we can work it out—actually, it would be quite close—then set this aside.

Mr. CRANSTON. Mr. President, I would be delighted if we could work it out. The problem from my point of view is that it is desirable for the Senate to act first. The House is going to act tomorrow on the Saudi arms sale, as is scheduled. So I have a need to try to get action today.

RECOGNITION OF THE MINORITY LEADER

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

SAUDI ARABIA ARMS SALE

Mr. BYRD. Mr. President, the statutory provisions that have been enacted provide for a motion to be made by any Senator in respect to arms sales resolutions. That motion is not debatable. There is a 10-hour limitation on the resolution once it is before the Senate. It is not amendable; it cannot be recommitted. The motion to proceed cannot be reconsidered.

I hope that something can be worked out in this matter and I shall do everything I can to try to help the distinguished Senator from California and to work with the distinguished majority leader in trying to bring this matter before the Senate for a vote.

The Senator from California has discussed the matter with me. He has discussed the matter with the distinguished majority leader from time to time, and I think he is entitled to have the motion before the Senate and let the Senate work its will on the motion and we can go from there. I hope we can work this matter out, and I shall do everything I can to assist the distinguished minority whip and to work with the distinguished majority leader.

Mr. CRANSTON. Mr. President, if the Senator would yield for a moment——

Mr. BYRD. Certainly, Mr. President.

Mr. CRANSTON. I thank him for that statement and thank him for the help he has already rendered on this matter and hope that he can give just a wee bit more help so we can get to the measure as soon as possible.

I want to say to the majority leader that I am reluctant to impose upon the majority leader's will or seek to do so in terms of his general authority to proceed in the Senate in terms of what we will be dealing with. I have never, I think, in my entire time in the Senate, made a motion to act upon a measure since I have not been the majority leader. In this case, we have an unusual situation in that the clock is running. If the House and the Senate have not acted by Thursday midnight, the President could proceed to authorize the sale. With somewhere close to or exceeding two-thirds of the Senate opposing the arms sale, it seems appropriate to have the Senate go on record soon making plain its view of that Saudi arms sale.

Mr. BYRD. Mr. President, I hope the distinguished Senator from California will let me have some time from his order if I need it.

Mr. CRANSTON. Certainly, Mr. President.

MATCHING ACTION TO WORDS IN INTERNATIONAL TRADE

Mr. BYRD. Mr. President, yesterday the majority leader and I both complimented the seven industrial nations which, at the economic summit, have agreed on a strong statement with respect to terrorism. I shall not go further into that at this moment, but I also note that they have agreed, I believe, to have GATT negotiations on trade in September. In the meantime, they will try to work together to coordinate their trade policies so as to try to bring about a more even balance, one that is more fair to nations such as the United States.

I should take note, however, that in the case of the last five, I believe—the last five—economic summits, the Japanese Prime Minister, Mr. Nakasone, has, prior to each summit, made glowing statements about the actions that Japan will take to open up its markets to imports from the United States. The same was done in this instance, when he recently came to the United States and said that Japan would take actions to open up its markets. He has said and done things that are to be commended. But, Mr. President, the actions heretofore that have been taken following the public relations exercises have not supported the public relations statements. Here, in this instance, I fear we shall see the same thing.

So, in the past, while Mr. Nakasone has made these very warm and gracious and accommodative statements, the business people back home and the other political leaders in Japan have said, "Oh, it is too dicey; we do not want to do this, we do not want to do that." And the Japanese consumers have not, apparently, paid a great deal of attention to the public relations and to the exhortations of the Prime Minister.

I hope that in this instance, we shall see more than we have seen in the past with respect to a followup to the public relations and to the glowing statements, the nice statements, that have appealed to us and have been so warm and ingratiating. I hope the actions will follow through and that we shall see some real advances made in the importation of American goods into Japanese markets and the opening up of those markets.

AVIATION SAFETY AND THE DECLINE OF PILOT EXPERIENCE

Mr. BYRD. Mr. President, in the era of airline deregulation, competition has brought major changes to commercial aviation in the United States. There have been consumer benefits, such as cheaper air fares, but the benefits of deregulation cannot be adequately evaluated without an assessment of the costs as well.

In the competitive environment established by deregulation, the airline industry has been expanding rapidly. This, in turn, has resulted in record levels of pilot hiring. In 1985, airlines hired more than 8,000 pilots, putting a severe strain on the pool of available experienced pilots.

One important effect of this development is a decline in the level of experience among pilots employed by the commercial passenger airline industry. In this regard, the Saturday edition of the Washington Post included a story on the decline in the level of experience of airline pilots, particularly among pilots employed by the rapidly growing regional commuter airlines.

This decline in the experience level of airline pilots is attributed, in large measure, to high pilot turnover at commuter airlines. According to the Post report, commuter airlines have been experiencing this high pilot turnover as their pilots, trained at the expense of the commuter airline, are moving to jobs with the major carriers. For example, in 1984, Henson Airlines lost an average of one pilot per week to the major carriers. In 1985, Henson lost 70 of its 220 pilots.

In an effort to cope with high pilot turnover, the commuters have been lowering hiring standards. It would appear from comments attributed to James Burnette, chairman of the National Transportation Safety Board, that the Nation's commuter airlines have been "scraping the bottom of the barrel" in their search for pilots.

For example, according to the Post report, in 1983, pilots hired by commuter airlines were required to have a minimum of 1,200 hours of flight time. By 1985, commuter airlines were hiring pilots with 350 hours, only 100 hours more than the FAA requires for a commercial pilot's license. Commuter airlines are also, according to the Post report, relaxing hiring requirements for age, vision, education, and flight experience.

A key indicator of the declining level of pilot experience is the number of

hours a pilot or first officer has spent in the cockpit. In 1983, only 8 percent of the pilots flying for commuter airlines had fewer than 2,000 flight hours. By 1985, 23 percent of commuter pilots had fewer than 2,000 hours.

The National Transportation Safety Board is focusing attention on pilot experience as a factor in several recent commuter airline accidents. For example, on September 23, 1985, a Henson Airlines Beech 99 crashed near the Shenandoah Valley Airport, killing all 14 people on board. Although the pilot of that flight had more than 3,400 hours of flight time, he had never flown that type of aircraft prior to his employment at Henson.

However, Mr. President, it would appear that the problem is not confined to the commuter airlines. There has also been a steady decline in the experience of pilots hired by the major airlines as well. According to the Post story, the problem is related to the expected retirement, over the next 20 years, of approximately 70 percent of the pilots employed by major airlines whose initial training came out of flying experience in World War II and Korea.

In addition, the majors have depended heavily on the American military for pilots. At one time, almost 75 percent of the pilots employed by the major airlines were former Navy or Air Force pilots. Today, however, less than one-third of the pilots at major airlines are former military pilots, in part because the military is training fewer pilots.

The Post story indicates that pilot training must play an important role in any effort to address this problem, particularly for the commuter airlines. Indeed, one member of the NTSB comments that it may be time to reevaluate pilot certification requirements for commuter airlines. According to the Post, no thorough review of this issue has been conducted since 1978, the year of airline deregulation.

However, the Post story indicated that the FAA is, to its credit, conducting a review of FAA pilot training and experience standards. To ensure that such a review is conducted in a thorough and timely manner, I have written FAA Administrator Donald Engen requesting him to give such a review a high priority.

Mr. President, I ask unanimous consent that the article to which I have referred to in my remarks from the Washington Post, and my letter to Administrator Engen, be inserted in the RECORD.

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

[From the Washington Post, May 3, 1986]

DECLINE IN PILOT EXPERIENCE RAISES CONCERNS ON AIR SAFETY

(By Michael Specter)

Federal aviation safety officials, citing three commuter airline crashes, are concerned about a sharp decline in the experience of the nation's pilots, especially those flying for the rapidly growing regional carriers.

"Commuter airlines are already scraping the bottom of the barrel in their attempt to provide pilots," National Transportation Safety Board Chairman James E. Burnett told a congressional subcommittee recently. "So we see levels of experience that are greatly reduced . . . and that is a disturbing situation."

The growth of regional and commuter airlines that has come with deregulation, coupled with the rapid expansion of many larger carriers, has opened the skies to thousands of new pilots. Many are being hired with fewer hours of flight time than most carriers would have accepted a few years ago.

Federal Aviation Administration officials, while worried that the rapid expansion of the major airlines will lead to a shortage of qualified pilots, say the system currently is safe. But they agree that the airlines require much less experience than in the past.

"Ten years ago the typical person in the cockpit far surpassed our minimum regulatory requirements," said John S. Kern, director of the office of flight operations for the FAA. "Nowadays, we see that level coming closer to the minimum standards. The problem is clearest with the smaller carriers, and in the next year we will take a very strong look at our pilot training and experience standards."

Experience requirements vary from airline to airline and from plane to plane, but one key indicator of the declining level of experience is the number of hours a pilot or first officer has spent in the cockpit. In 1983, 8 percent of the pilots working for regional airlines had fewer than 2,000 flight hours. By last year, according to the Future Aviation Professionals of America, which monitors pilot standards, that figure had grown to 23 percent.

Although federal officials have yet to pinpoint the cause of the three commuter airline crashes, the experience of the crews is being studied as a possible factor. In one, the Sept. 23 crash of a Henson Airlines flight into a mountain near Virginia's Shenandoah Valley Airport, the pilot was flying a plane he had never flown until he was hired by the Maryland-based company a year earlier.

The plane's captain, former corporate pilot Martin (Ed) Burns, had logged more than 3,400 hours of flying, according to the NTSB, but he had never flown the 15-passenger Beech 99 until he joined Henson.

That accident, which killed all 14 persons aboard, and at least two others being reviewed by the NTSB have galvanized concern among federal officials over the decline in experience among the nation's commercial pilots.

The NTSB, which is charged with investigating all aircraft accidents, is evaluating the same issue in the March 13 crash of a Simmons Airlines flight in Alpena, Mich., that killed three people, and in last year's Bar Harbor Airlines accident near Auburn, Maine, that killed six persons, including Samantha Smith, the teen-ager who had become a celebrity when the Soviet Union invited her for a visit.

"In the past, the federal minimums did not apply because nobody in the industry would hire somebody on that level," said John O'Brien, director of engineering and air safety at the Air Line Pilots Association. "But that's changing. It's just hard to find that individual with 3,000 hours these days."

In 1983, the minimum amount of flight time required to be hired by small carriers was 1,200 hours. By last year, after the biggest growth spurt in the history of aviation, some airlines were hiring pilots with as few as 350 hours, only 100 more than the FAA requires for a commercial license.

Airlines also are relaxing requirements for age, vision, education and flight experience in an effort to keep full staffs. More than 8,000 pilots were hired by American air carriers in 1985, the largest number ever, according to the Air Line Pilots Assocation.

Dramatic airline growth in the era of deregulation is not the only reason for the surge. The generation of commercial pilots that came out of World War II and the Korean War is retiring. During the next 20 years, America's major airlines will lose at least 70 percent of their pilots to retirement, according to the pilots group.

As the smaller airlines watch the pilots they trained at great expense head for jobs with the bigger carriers, they are struggling mightily to absorb the losses.

The problems of Henson Airlines, the eighth largest regional carrier in the nation, are typical.

In 1982, Henson lost an average of less than one pilot each month. By 1983, the average was slightly more than one a month, and the following year the trickle had turned into a flood with an average of more than one pilot leaving each week. Last year, Henson lost 70 of its 220 pilots, and 19 have departed in the first three months of 1986.

"We are now looking for those people who are not quite as attractive to the big airlines," said John Presburg, Henson's vice president of development and scheduling. "With the seniority system we have, when you lose a captain you have to train everybody to move up a notch. It's a ripple effect that is felt by everyone. But before we would lower our standards we would curtail the growth of this company."

For years the military was the main source of pilots for the major airlines, with almost 75 percent coming from the Air Force and the Navy, according to statistics from the pilots association. The proportion of former military pilots has dropped to less than a third, partly because the military is training fewer pilots. That has forced the major carriers to turn to the regionals, and these airlines are often so small that training is a major problem.

"Training is the key to this entire problem," said John Lauber, a former human affairs specialist with the National Aeronautics and Space Administration who recently became a board member of the NTSB. "It is really the only way you can compensate for lack of experience. Today, we are hiring people who have not been forced to exercise their skills, and we need to enhance training within some of the commuters."

Lauber and the FAA's Kerns have said that it is time to decide whether pilot certification requirements should be changed for the smaller carriers. No thorough review of the issue has been conducted since 1978, when deregulation began.

The biggest training problem facing most regional air carriers is economic. For years, major airlines have used highly sophisticat-

ed flight simulators to help train pilots. These machines can cost millions of dollars—as much as a plane in many cases—and they are beyond the means of many small carriers.

"We have good people out there at the entry level, but it costs a fortune to get them trained," said Tulinda Deegan, vice president of the Regional Airline Association, which represents most of the smaller carriers. "You can't expect a small airline to spend $6 million on a simulator."

The FAA recently issued guidelines that would allow regionals more use of less sophisticated simulators for training, a move the commuter airlines sought. But the industry is not united on their use.

"Nobody around here wants to lower standards," said O'Brien of the Air Line Pilots Association. "But the key question is, how sophisticated does a simulator need to be to get good training?"

To keep the pilots they have, small carriers are turning to methods they had not considered before. Av Air (formerly Air Virginia) recently advertised for pilots and first officers, noting that it was interested only in local people.

"You have to figure out what your strengths really are," said Michael Campbell, an attorney who represents regional and commuter airlines. "You don't hire somebody from the West Coast to fly a local New England circuit. You remind people they will be home almost every night. And you raise pay."

Today, senior pilots at many regionals make more than they would if they switched to bigger carriers. Top pay at Ransome Airlines, for instance, is just under $50,000 a year for senior pilots. A pilot with 10 years' experience at Trans World Airlines makes virtually the same salary.

"It doesn't even matter, they want to fly jets," said Deegan of the Regional Airline Association. "In the end it doesn't matter how much we pay them or the routes they fly. A bunch of Ransome Airlines pilots just took a 50 percent pay cut to take off to People Express. No training is going to stop that."

[From the Washington Post, Apr. 19, 1986]

FAA GROUNDS 59 COPILOTS

The Federal Aviation Administration yesterday grounded 59 copilots working for Britt Airways, one of the country's largest commuter airlines, because of concerns they may not be qualified to fly.

A spokeswoman for the Indiana-based airline, which services 26 communities in Indiana, Illinois, Kentucky, Missouri and Iowa, said the action would not affect scheduled flights.

FAA spokesman Stephen Hayes said the agency notified the airline that 59 copilots would have to stop flying immediately and be retrained. The action came after six of nine copilots failed a spot check.

The FAA has had Britt Airways under a special in-depth inspection for several weeks. "During the course of the inspection, our inspectors became uncomfortable with the initial training and training records for the commuter's copilots," Hayes said.

"The number of pilots not flying are a very small portion of our first officers," said Pam Law, manager of consumer affairs for the airline.

Although Hayes said Britt Airways had 90 copilots in all, Law said the figure was "between 110 and 130," with an equal number of pilots.

The airline had operated for 17 years under family ownership until it was bought earlier this year by People Express.

The grounding order covers all copilots trained in the last 12 months, Hayes said.

U.S. SENATE,
Washington, DC.

DONALD D. ENGEN,
Federal Aviation Administration, FOB-10A, 800 Independence Avenue SW., Washington, DC.

DEAR MR. ENGEN: On May 3, 1986, the Washington Post carried a story regarding the decline in the level of pilot experience, especially among pilots flying for commuter airlines. The article noted that pilots being hired by the major airlines and commuter airlines have less experience than most airlines would have considered acceptable a few years ago. Several years ago, the experience level of pilots was in excess of the minimum regulatory requirements. Today, however, the level of experience is closer to the minimum standards.

It is not yet clear whether pilot experience played any role in commuter airline accidents, although I understand the National Transportation Safety Board is looking into this issue. It would appear to me that the declining level of pilot experience should be an issue of considerable concern to the FAA. However, according to the Post, there has not been a thorough review of pilot certification requirements for commuter airlines since 1978. The story did indicate that the FAA is at least planning a review for next year of FAA pilot training and experience standards.

The serious implications for aviation safety of the declining levels of pilot experience suggest that a thorough review and assessment of pilot certification requirements should be given a high priority by the FAA, and be conducted in a timely manner.

As you may know, I have been concerned about the status of aviation safety in the era of deregulation, and I have been particularly concerned with issues relating to the safety of commuter airlines.

I would be most interested in the results of your review, and your recommendations for addressing this problem. I look forward to hearing from you.

Sincerely yours,

ROBERT C. BYRD.

AN INSIGHTFUL BIOGRAPHICAL SKETCH ON SENATOR GLENN

Mr. BYRD. Mr. President, Senator JOHN GLENN from Ohio has often been described as one of a handful of genuine living American heroes. Certainly, as the first American to orbit the Earth in space, Senator GLENN is known and admired by countless millions, here and abroad. Without question, Senator GLENN's name will be included in history books written about our century from now on.

In the March issue of Caring magazine, an interesting article appeared on the distinguished Senator from Ohio, entitled, "A Tribute to Senator John Glenn: Hero, Statesman, and Great Friend to the Elderly." I ask unanimous consent that that article on Senator GLENN be printed in the RECORD.

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

A TRIBUTE TO SENATOR JOHN GLENN: HERO, STATESMAN, AND GREAT FRIEND TO THE ELDERLY

(By Val J. Halamandaris)

He is as unpretentious as they come. He likes Big Macs, ice cream sundaes, and going to church on Sunday.

He wears Brooks Brothers' suits and drives a modest Chrysler convertible.

His favorite movie is True Grit, which starred John Wayne; he likes to munch on chocolate and to drink Royal Crown Cola.

He is as clean cut as you can get. He is a personification of all the time-honored American values.

By his example, he has set a new standard of what it means to be all-American.

He is somehow larger than life. He is one American who can legitimately lay claim to the word "hero." He is that and more.

Some people have described him as the Democratic Eisenhower. It is intended as a compliment and the similarity goes beyond the physical resemblance.

Still others say that his virtues are so large that they have become vices. For example, he is criticized for being too honest and too moral—if such a thing could be possible.

He is a man millions of Americans think should be the next President of the United States. These Americans look at the United States as a ship of state and, based on his track record, they have good reason to feel comfortable if he is at the controls.

As a scientist and astronaut his place in world history is already assured. He has used his years in the Senate to work for peace and to control the proliferation of nuclear weapons.

He has also used his considerable energies to benefit the nation's 27 million older Americans. At the age of 64 he is still a comparative youngster. There are without doubt many achievements ahead of him in the days to come. He is fueled by the same insatiable drive to excel and is intent on making the same mark in the political world that he has made in the military, in business and in space.

His name is John Glenn, the senior senator from Ohio.

BACKGROUND

John H. Glenn was born on July 18, 1921 in Cambridge, Ohio. His father was a farmer who opened a plumbing business, moving his family to the neighboring town of New Concord.

John was educated in the New Concord public schools and went to New Concord High School. After graduation from high school, he enrolled in Muskingum College, also in his home town. His teachers and classmates describe him in his youth as "a nice kid, pleasant to be around." He played sports but was not a superstar. He was a good student but not a great student. But there is also universal agreement that he had a determined streak and that he tried harder than anybody else.

His college career was interrupted by World War II, when he enlisted shortly after Pearl Harbor in the Naval Aviation Cadet Program. John's love of airplanes came early. As a youngster he and his father attended the Cleveland Air Show every year. He was commissioned into the Marine Corps in 1943.

In 1943, just prior to his assignment overseas, he married his childhood sweetheart, Annie Castor Glenn. He saw plenty of action in World War II, serving in the Pacific theatre. Setting the pattern that was to become his trademark, Lt. Glenn volunteered for the most dangerous missions.

After the end of World War II, Lt. Glenn flew reconnaisance missions and became a flight instructor for advanced flight training. He had mastered the art of flying. He was the man to whom the best went to become better.

With the outbreak of the Korean War, he requested combat duty. He earned the sobriquet, "Old Magnet Tail" because of his death defying habit of flying his fighter-bomber low and slow over the target for maximum accuracy. His tactics, it is said, attracted enemy fire like a magnet. Seven times he had his airplane badly damaged by enemy fire, and on three occasions the plane was literally shot out from under him.

Through it all he survived. He looked death in the face and, with nerves of steel, he got the job done. By the time he was through he had flown 150 combat missions. He had shot down 20 enemy MIG fighters. He was awarded the Distinguished Flying Cross on five occassions and the Air Medal with 18 clusters.

After Korea, Captain Glenn became a test pilot. He made the news in July 1957 by setting the transcontinental speed record. He was the first to fly from the Los Angeles to New York at supersonic speed.

There was no doubt about it. He was by then a genuine national hero. His exploits brought him his sixth Distinguished Flying Cross, but greater glories were to come.

SPACE

In October of 1957, the Soviet Union Launched Sputnik, the shot that signalled the beginning of the race into space. America was shocked. It was a time of soul searching and evaluation. Out of it came a determination to focus the nation's energies on the goal of being first in space.

It was argued that America could not afford to allow the Soviets this kind of advantage. Even then it was observed that the control of space would afford the favored nation a significant military advantage. The debate raged about what to do and how to do it. Questions were raised as to whether unmanned flight should be planned or whether animals or man should try to make the journey.

It was a journey fraught with risks. All America watched in embarrassment as one test rocket after another exploded at liftoff or headed for South America instead of into outerspace.

It was at this time that NASA conducted a nationwide competition to select seven men, the best and the brightest, the strongest and mentally the toughest to be trained for what it was hoped would be manned flights to the moon and beyond. As everyone knows, John Glenn was one of the seven selected. At the age of 37, he was the oldest of those chosen.

In the book, "The Right Stuff" by Tom Wolfe, Glenn is portrayed as being the most gung-ho of the group: a man with unequalled self confidence based on moral uprightness; a man who carried the stiff upper lip notion to every muscle in his body. It is reported that the other astronauts sometimes found him hard to take because of his excessive zeal and enthusiasm. Much has been speculated about his popularity with the other astronauts and whether it was some dislike for him that caused the others, by a vote among themselves, to select Alan Shepherd to be the first man in space. From my reading, I understand that things were just a little different.

Astronaut Shepherd was to be the first man in space but in a sense his flight was less difficult. Shepherd was to make a suborbital flight; to be sent high into space and then fall back to earth. Leaving the earth's gravitation pull and orbiting the earth was an altogether more difficult and more risky affair. The problems of breaking out of orbit and surviving the intense heat upon the re-entry were awesome. Typical of Glenn, he had taken on the tougher assignment and he came through it with style.

Friendship 7 launched him into orbit on February 20, 1962. The rocket had 360,000 pounds of thrust and reached speeds of 18,000 miles per hour. After circling the earth three times, he fired his rockets to reenter the earth's atmosphere. NASA was greatly worried because it appeared the capsule's heat shield was loose. The temperature outside of the capsule reached 3,000 degrees, and he lost radio contact with earth as temperatures inside the capsule reached 200 degrees. Still he made it, splashing down in the Atlantic after some five hours in orbit. It was a major breakthrough in man's conquest of space.

Glenn returned to a hero's welcome, including a ticker-tape parade in New York City. He met and became fast friends with President John F. Kennedy and his brother Robert. It was their encouragement that nudged him into the world of politics.

POLITICS

There are times when Glenn's integrity gets in his way. One example was illustrated in the book and movie, "The Right Stuff." That was the scene in which NASA exerts all kinds of pressure on Glenn to allow television cameras into his home, to interview his wife Annie, and to receive Vice President Lyndon B. Johnson.

Knowing that it could cost him everything he had worked for, the chance to be the first American to orbit the earth, Glenn sided with his wife who did not want to receive any visitors. Annie Glenn suffered with stuttering, an impairment she later conquered through years of laborious therapy. Out of respect for his wife's wishes Glenn told NASA, the television networks and the Vice President of the United States to go pound sand.

Few people have realized how this event connects with another, namely the assassination of President Kennedy and the consequences for Glenn.

President Kennedy and Attorney General Robert Kennedy developed a genuine affection for Colonel Glenn. They encouraged him to become involved in Democratic politics in Ohio in large part because they thought he would make an excellent representative of the people of that state. They thought it would be a good move for Glenn personally since he had reached his 20-year mark and was due to retire from the military in the near future. They also thought Glenn could help them in the President's 1964 reelection campaign. They were trying to field the strongest possible candidates on the ballot in every state in order to insure a wide democratic margin in the Presidential election.

The brothers Kennedy had arranged a deal with Ohio's 76-year-old Senator, Stephen Young. Young had been looking to step down if he could receive a certain appointment that he coveted. Robert Kennedy worked out the details. Senator Young would get his post leaving an open primary and open general election for John Glenn's run for the Senate

Then President Kennedy was assassinated and Lyndon Johnson became President. President Johnson had no inclination to help John Glenn and his fledging flight for the Senate feeling that he had been embrassed by Glenn the year before. In fact, LBJ was fond of Senator Stephen Young and talked him into running for re-election. Glenn went through with his plans announcing he would oppose Senator Young in the primary but he had to drop out because of a freak accident in which he fell and hit his head on a bathtub. The fall caused Glenn to suffer from inner ear problems that found him out of the race, but not out of the public eye. Americans were to hear from John Glenn again.

BUSINESS

Senator Glenn turned his attention to the world of business. He was 43 years of age. He had a small pension having just retired from the Marine Corps, but not much else in the way of income. He used the only cash that he had which came from an article about the astronauts which appeard in Life magazine to invest in real estate; specifically in the ownership of several Holiday Inn franchises.

He obtained a position as Vice President for Development with the Royal Crown Cola Company which paid him a fair salary plus stock options—options which became more valuable as Colonel Glenn's influence helped improve the company's standing. He worked himself up to the post of Chairman of RC International, heading the company overseas operations.

Over the next 15 years his business investments did extremely well. He went from being close to broke in 1965 to assets of more than $8 million and a yearly income in excess of $1 million. But politics had become intermingled with his blood and that siren beckoned to him again in 1970.

In 1970, Colonel Glenn ran for the democratic nomination for the US Senate. He was opposed by wealthy businessman, Howard Metzenbaum. The polls showed Glenn running well ahead. Some pundits said that Glenn was overconfident. Others said he did not make the right amount of effort to win over the party regulars. Others say that Metzenbaum, an articulate lawyer, beat him in debate. Regardless of the reason, Glenn lost his second attempt for the nomination. Metzenbaum himself lost to the Republican, Robert Taft, Jr.

Four years later there was a rematch. Glenn won the primary and handily won the general election by a margin of 1 million votes. Howard Metzenbaum also won a subsequent election to the US Senate, and the two Ohio senators now enjoy a cordial and cooperative relationship.

In 1980, Senator Glenn was reelected by the widest margin in Ohio history.

THE PRESIDENCY

Anyone who knows anything about Senator Glenn's dare-to-be-the-best style knows that a run for the Presidency was inevitable. He tossed his hat in the ring in 1984, losing the nomination to Walter Mondale. Through the rigorous primary season he remained high in the opinion polls but did less well than expected at the electoral polls. Before dropping out of the race, he saw his number two ranking taken by Senator Gary Hart. The reasons that he failed to do better have been examined by pundits all over the nation with very little agreement.

They said he looked stiff and wooden, that he was not a very exciting speaker, that he had failed to properly frame issues or offer solutions which captured the imagination of the American public and that he had failed to do the horse trading, wheeling and dealing which is necessary in order to gain the support of various powerful polls and special interest groups. There may be some truth to some of the above but the larger problem is that the press and the general public have underestimated the man. When I served as Counsel to the Senate Aging Committee, I had a chance to see him up close and there is a good deal more than meets the eye.

To be sure he is not a backslapper or a horse trader. He doesn't give his vote in exchange for anothers. He makes his case explaining the facts and then walks away, leaving Senators to do what is within their conscience. Little wonder that he found it hard to do deals on an even larger scale. Even in the face of strong opposition by the established party, he was elected, essentially without debt to special interests, leaving him free to do what he felt was in the best interest of the Republic. It was hard for him to change course then.

He carries himself ram-rod straight. He is alert and under control at all times which sometimes gives him a serious or upright appearance. However, he is very personable. He cares about people deeply. He has a great smile, a ready laugh, and a twinkle in his eye—it is just that that side of him doesn't have much of a chance to come out in the serious backwash of Washington. For all his still appearance he is actually very relaxed. Serving in the Senate, as strenuous as it is, does not compare, with flying 700 miles an hour in a hunk of metal with a bunch of guys in similar machines firing 50-calibre machine gun bullets at you.

And he can be a very good speaker. The content of whatever he has to say is first rate. He has a good head on his shoulders. When he chooses to let loose a little of that emotion, that enthusiasm that he has so tightly bundled within like barrels of TNT, he can pack a wallop. His speaking style can be explained by his background. In the military, he says, "We were trained not to make commitments until the last minute. In politics, I think people commit themselves too soon." He appears to believe in the principle of conservation of energy. He will use his when it counts. Finally, it should be remembered that he is a man of action, not of words. He has made a career of doing the impossible while other people merely talked about doing it.

Another key to his personality comes from something he said about flying. He said, "Flying in itself is not inherently dangerous but it is mercilessly unforgiving of human error." In the context of his adventure in space he said, "The key to survival is to reduce unnecessary risk." It appears to me that he approaches the game of life the same way. He is cautious. He does his best to limit mistakes. However, he is oblivious to risk once he has charted his course in which case he becomes tenacious, almost relentness, in the pursuit if his goals.

Those who say he is dull do not know him. A man who has been in succession a World War II ace, one of the most decorated pilots in Korea, a test pilot who sets world records, an astronaut, a businessman who started with nothing and became a millionaire, and now a US Senator, by definition cannot be dull.

I doubt very much if Americans would warm up to him if he were less moral. It is just that he is so good, so honest that it is hard to accept that he is for real. He embarrasses us and points up our own weaknesses by his example.

When asked why he wanted to be President he said:

"I think we all aspire to be the top of the heap in our own particular profession because it gives you the most control over a future which is unknown to you. If you have respect or have received eminence in a particular field, your future is more secure than it would be otherwise."

In an interview with *Political Profiles* a while ago, he put it this way:

"When I see the opportunities that we have in this country being reduced; when I see us building up a $207 billion a year deficit and passing it along to our grandchildren so that we can have whatever economic recovery we are getting right now, building up interest rates [until they are] far too high, making us less competitive internationally, less able to modernize here and be competitive; when I see foreign policy flip-flops I don't agree with; defense purchases I don't agree with; when I see cutbacks in the area of civil rights—twenty-nine years after *Brown* v. *Board of Education* we're cutting back on enforcement and trying to carry out the intent of that law; when I see cutbacks in enforcement in environmental areas, less concern for woman's rights, poverty on the increase in America—fifteen percent of our people now at or near the poverty level; when I see cutbacks in education and research—those two areas that are going to do more toward determining American competitiveness in the future than anything else—I know we are headed in the wrong direction. That is leadership to the past. If I can be an instrument in helping to change those policies and turn us around, set goals and objectives for the future, expand opportunities in this country—I can't think of a greater purpose I can serve."

SENATE CAREER

The previous quotation does a great deal to summarize the issues with which Senator Glenn has been most concerned during his tenure in the U.S. Senate. His primary concern is the control of nuclear weapons. "I have been in two wars, so no one is going to negotiate any harder for peace," he said. "The highest form of patriotism is the unrelenting pursuit of peace," he added.

The pursuit of racial justice is another issue that he has made a priority. Education ranks just as high as is the establishment of programs to retrain individuals who have retired or left one kind of employment. He believes the future will offer us an opportunity to be educated for one job, work at it for a time, receive retraining and then take on a second and perhaps a third career, to meet the needs of a changing technological marketplace.

He has pushed hard to expand monies spent on research and technology. He believes that they hold the key to the future—the key to unlocking future jobs, trade, and ultimately the military as well as the economic well-being of the nation. In this connection he has harsh words for the Reagan Administration which has been cutting back on such research. "The Reagan Administration says that if it is worth doing, private industry will do it. That's poppycock nonsense because they will not do it."

The Senator seems obsessed with the word opportunity. He believes that social mobility is fundamental to America's future. He believes in equality of opportunity—in giving everyone a chance to rise, as he did, from the farm to the US Senate.

Asked who he admires, he responds President Lincoln for idealism, President Truman for decisiveness, and President Roosevelt for innovativeness.

AGING

The one part of his Senate career which all too often is overlooked is his significant contribution to improving the quality of life for America's senior citizens. He has made an excellent record in this regard. He is the ranking Democrat on the Senate Committee on Aging where he has been an effective counterpart of the aggressive and intelligent Senator John Heinz.

During his tenure with the Aging Committee, he has worked long and hard to preserve social security, and civil service retirement incomes for the elderly. He approaches these as a contract with the prior generation, which cannot ethically be tampered with without breaking faith.

He has done his best to help senior citizens to keep on working if they so choose. He has fought mandatory retirement laws. He has also supported legislation which provides employment opportunities for older Americans.

He has played an important role in helping to stamp out various kinds of fraud perpetrated against the elderly. He was instrumental in enacting legislation to help end abuses perpetrated in the sale of insurance supplementary to Medicare.

He recently introduced legislation to increase the federal dollars available to fund geriatric research and education. He noted that only 15 of the 127 US medical schools require their students to study geriatric medicine. He notes that only one-tenth of one percent of US physicians now specialize in geriatrics. He argues this must change if we are to be prepared for the escalating number of Americans who will, on average, he living longer in the future.

The Senator has also had a strong interest in long-term care saying that it is important to have the services available and tailored to the needs of particular individuals:

"For those persons who need nursing home care, we must ensure the highest quality standards. But we must also work with the states and local communities in pursuing alternatives to institutionalization. We must encourage the development of supportive services, housing, and home-based care and strengthen the informal support being given to the elderly by family members. For these reasons I am supporting the Home Care Protection Act and will continue to sponsor measures that encourage the use of community-based resources."

No Senator in the Congress has been a stronger backer of home health care than Senator Glenn. He took the lead in blocking the implementation of the new methodology being promulgated by the Department of Health and Human Services which would have set cost limits by discipline. The net effect would have been a cut in benefits.

He has fought the imposition of coinsurance upon the Medicare home health program. He has fought efforts to place a freeze on reimbursement. He and Senator Heinz have held hearings which have brought out the fact there has been a 37% increase in the number of patients discharged to home health agencies since the enactment of the DRG system for hospitals. He has argued that this government-induced increase merits an increase in Medicare home health monies rather than the

reductions proposed by the Reagan Administration.

He has introduced legislation to clarify a key limiting term in the Medicare home health entitlement, the term "intermittent care," and he has been instrumental in blocking HHS's imposition of a new restrictive form known variously as HCFA Form 443 and 485. In sponsoring the resolution creating National Home Care Week last year he said:

"I am deeply aware of the importance of home health services in meeting the long-term care needs of older Americans. Since joining the Committee on Aging, I have worked to develop home health care as an available and cost effective option for those who prefer to be cared for at home rather than in a hospital or nursing home."

Last July the Senator presided at a hearing held in conjunction with the Thirteenth International Congress on Gerontology. The subject was "The Graying of Nations." The Senator was eloquent indeed in his opening statement which set the stage for the meeting.

He quoted the American Playwright Paul Green, who wrote that "the sun setting is no less beautiful than the sun rising." Senator Glenn added, "We all know that to grow old is our common destiny. Whether aging will in the future be a blessing or a curse depends on us." He said that perhaps the poet Henry Wadsworth Longfellow pointed the best way to the goal.

He noted that Longfellow was asked late in life how he was able to remain so vigorous and write so beautifully. Pointing to the blossoming apple tree nearby the poet replied:

"That apple tree is very old, but I never saw prettier blossoms on it than those it now bears. The tree grows a little new wood each year, and . . . it is out of that new wood that the blossoms come. Like the apple tree, I try to grow a little new wood each year."

CARING is proud to salute Senator John Glenn for his achievements. It is obvious that he will keep on blossoming for decades to come.

Mr. BYRD. I yield the floor.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. The Senator from Wisconsin [Mr. PROXMIRE] is recognized.

LATEST ADMINISTRATION ALIBI ON AVOIDING TEST BAN—OUTRAGEOUS

Mr. PROXMIRE. Mr. President, in a letter that appeared in the New York Times on May 5, Charles Van Doren has denounced the administration's latest alibi for refusing to negotiate a ban on nuclear weapons testing as "outrageous." Who is Charles Van Doren and does he speak with authority? Charles Van Doren has devoted most of his distinguished 19 years in the Federal Government to the critical job of heading off the spread of nuclear weapons. For 4 years, 1977 through 1980, Mr. Van Doren served as Assistant Director of the U.S. Arms Control and Disarmament Agency. Here is an expert who obviously knows exactly what he is talking about.

What is the latest reason given by the administration for their opposition to the comprehensive test ban treaty? This time they say the ending of the test ban would encourage other nations to develop their own nuclear arsenals? Van Doren does more than call this outrageous. He also says exactly the opposite is true. Is Van Doren right? Yes. Why? Because a test ban treaty would provide the basis for those nations now moving toward the development of their own nuclear arsenals to agree to stop. With a superpower test ban in place, these potential nuclear weapon states would be far more likely to negotiate an end to nuclear testing and eventually to accept international inspection to assure a compliance.

Van Doren does not theorize. He is specific. He considers each of the countries which, in the absence of a superpower comprehensive test ban treaty, have begun to move toward building their own nuclear arsenal: Pakistan, India, Israel, South Africa, Argentina, and Brazil. He points out that each of these countries have refused to join in the Nonproliferation Treaty. They have built sensitive nuclear facilities. They have refused international safeguards.

So first we have the hard evidence that in the absence of a superpower comprehensive test ban treaty, nuclear weapons proliferation is, in fact, proceeding. Second, a superpower test ban would provide both the example and the basis for these potentially proliferating countries to join in. Van Doren puts it this way:

> If India and Pakistan joined a test ban, India and Pakistan would not proceed to a test that could demonstrate a nuclear-explosive capability and give its leaders confidence that what they had developed would work: Pakistan would gain an assurance that India would not resume its nuclear testing program, and both would be precluded from developing more advanced nuclear explosives, such as the thermonuclear, boosted or miniaturized weapons, or explosives they could claim were for "peaceful" purposes.

A superpower comprehensive nuclear test ban would have similar advantages with respect to the other potential nuclear weapon states because in each case it would provide a far better basis than these countries have now to know that rival, neighboring states—their potential foes—were not developing their own nuclear arsenals. Without question the principal force driving nations toward developing their own nuclear arsenal is the fear and suspicion that their traditional military rivals are building up this massive, decisive nuclear weapon that gives the nation that has its own arsenal an intimidating deterrent advantage.

And there is more. What do the potential nuclear countries themselves say about the effect on their policies of a superpower test ban agreement? Israel, South Africa, India, and Brazil joined the Limited Test Ban Treaty and promised to participate in negotiations for a comprehensive test ban. It is also true that those nations which are parties to the Nonproliferation Treaty have consistently and vehemently urged that the superpowers agree to a comprehensive test ban. Are these nations all lying? Are they all deceiving their own people and world opinion by calling for a superpower comprehensive test ban treaty? Or don't they know what they are talking about?

Mr. President, the administration has given a sorry series of alibis for their refusal to negotiate a comprehensive test ban treaty. They have contended that we could not verify Soviet compliance, although seismologists overwhelmingly contend that the technology can do the job, and although the Soviets have made it clear they will agree both to the placement of monitoring stations throughout the Soviet Union, and unannounced, on-the-spot inspection of suspicious activity. The administration has said they need the tests to determine the reliability of our existing stockpile. Such reliability tests constitute less than 3 percent of our nuclear weapons tests. We could easily negotiate a strict exception for these tests. We could agree they could be conducted under the scrutiny of international inspection. And now the administration comes with the sorriest excuse for an alibi of all. It is the ridiculous argument that a test ban would spread nuclear proliferation when the precise opposite is the case.

Why then does the administration want to continue testing? Answer: The scientists are not content with the first two generations of nuclear weapons—the atomic bomb and the hydrogen bomb. Now they have a third generation coming on including laser, optics and others. These will require more complex tests, more expensive tests and far more tests for each new design. How will this testing benefit this country? The testing will give us evermore deadly and lethal weapons. Why do we need evermore deadly and lethal weapons? Is it because the Soviet Union might develop a more powerful arsenal of death? If so, what is the best way to meet such a threat? Should we race with the U.S.S.R. to see if we can build our bigger and bigger arsenal first? Or should we stop this insane and costly rush to death with a comprehensive test ban treaty?

Mr. President, I ask unanimous consent that the letter to which I referred by Charles Van Doren in the New

York Times edition of May 5, 1986, be printed in the RECORD.

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

TEST BAN WOULD HELP CONTAIN NUCLEAR PROLIFERATION

To the Editor:

Whatever one may think of the Administration's other arguments for continuing nuclear-weapons testing, trying to justify it on the ground that a comprehensive test ban treaty would increase the risk of proliferation is outrageous (news story, April 22). As one who dedicated his 19-year career in the U.S. Government primarily to heading off the spread of nuclear weapons to additional countries, I am convinced the very opposite is true.

Can the Administration seriously believe that if there were a comprehensive test ban our North Atlantic Treaty Organization and Asian allies would decide to abandon the nonproliferation treaty and develop their own nuclear weapons as a consequence? No one seriously versed in this field believes that they would respond in that way. The countries of real current proliferation concern are Pakistan and India, Israel, South Africa and—to a recently lessened degree—Argentina and Brazil. These countries have eschewed the nonproliferation treaty (which they say is discriminatory), built sensitive nuclear facilities that they have refused to submit to international safeguards and, in some cases, refused to renounce the option to conduct "peaceful" nuclear explosions that are indistinguishable from weapons tests.

A comprehensive test ban treaty, which would be nondiscriminatory, is one of the most promising vehicles for surmounting these problems. If India and Pakistan joined a test ban, India would gain an assurance that Pakistan would not proceed to a test that could demonstrate a nuclear-explosive capability and give its leaders confidence that what they had developed would work; Pakistan would gain an assurance that India would not resume its nuclear-testing program, and both would be effectively precluded from developing more advanced nuclear explosives, such as thermonuclear, boosted or miniaturized weapons, or explosives that they could claim were for "peaceful" purposes.

It would have even clearer advantages for Argentina and Brazil, where mutual reassurance is the key requirement. it could also help dampen concern about Israel and South Africa, if they joined it, and reduce pressure on their antagonists to go nuclear.

Israel, South Africa, India and Brazil did join the limited-test-ban treaty, in which they expressed their determination to achieve a comprehensive test ban (so did the United States), and in the last two years the heads of India and Argentina have joined in highly publicized declarations urging prompt conclusion of a comprehensive ban.

In addition to these possible direct benefits affecting holdouts from the nonproliferation treaty, a comprehensive ban would be of substantial help in preserving and extending the nonproliferation treaty. It is the measure most persistently demanded by nonnuclear states that are parties to the nonproliferation treaty as a demonstration that the superpowers are fulfilling their part of the bargain under that treaty. And, to the extent that a comprehensive ban was joined by nonproliferation treaty holdouts, it would reduce the risk of defections from that treaty by parties that feel threatened by the holdouts.

For these reasons, a comprehensive test ban could—as stated in the reports of panels from the United States and Western Europe published in early April by the Council on Foreign Relations—make a significant contribution to containing proliferation.

CHARLES N. VAN DOREN.

MYTH OF THE DAY: AMERICANS ARE CONSUMING LESS DAIRY PRODUCTS

Mr. PROXMIRE. Mr. President, the myth of the day is that Americans are consuming less dairy products. Nothing could be further from the truth. If ever there were a myth, this is it.

Here is what the facts reveal. For 2 straight years, the consumption of dairy products by Americans has shown a dramatic increase in almost every category.

In 1985, total milk consumption shot up 3.7 percent, which represents the largest year-to-year increase in the last 25 years.

Now, Mr. President, I have with me two great examples from Wisconsin of our dairy products. I hold them up so that the television audience can see them, and I recognize that sitting in the Chair is a remarkable example of the efficacy of eating dairy products. I am referring, of course, to the handsome, young Senator from Washington [Mr. GORTON], who is 57 years old, according to the records, but he looks about 27 years old. I am sure that the Senator from Washington is a consumer of cheese, although I imagine some of his cheese may come from the State of Washington and their great dairy herd.

In eight of the nine total milk product categories, the year 1985 saw impressive gains. These included the following:

Ice cream, up 0.1 percent; cottage chesse, up 0.7 percent; frozen dessert, up 1.2 percent; American cheese, up 1.5 percent; fluid milk, up 1.5 percent; butter, up 3.7 percent; total cheese, up 3.8 percent; and other cheese up 6 percent.

The only decrease in consumption in 1985 came in the case of nonfat dry milk, which was down 11.5 percent from the 1984 figure.

This change in the nonfat dry milk category is generally considered to stem primarily from an abundance of fluid milk, particularly in the South. As a result, fluid skim and condensed milk, not the customary nonfat dry milk, were utilized in making certain products like cottage cheese and ice cream.

The major gains in dairy product consumption in 1985 are part of a 2-year pattern. Since 1983, the total milk category has increased by a whopping 7 percent. Among the various product categories, the following recorded the largest consumption jumps during the 1983-85 period:

American cheese shot up 9.5 percent.

That is American cheese, and it has a map of Wisconsin on it and it should be because 40 percent of all the cheese in the country is produced in the great dairy State of Wisconsin, 40 percent. And now I hold up Colby cheese, which is particularly a Wisconsin product. In fact, we have a city named after Colby in Wisconsin. Total cheese consumption, a 12-percent increase in the last 2 years. And other cheese, up 14.5 percent.

The next highest increase in 1983-85 occurred in the following product areas:

Cottage cheese, up 0.7 percent; frozen dessert, up 1.5 percent; fluid milk, up 2.4 percent; and butter, up 5.7 percent.

So, Mr. President, I hope we can put to rest the myth that people are eating less. There used to be a song "50 million Frenchmen can't be wrong." Well, 230 million Americans cannot be wrong. They are eating more cheese, they are living longer, they are living fuller lives, and some of them may even look as good as the distinguished presiding officer from Washington [Mr. GORTON].

Mr. President, the data presented above makes it crystal clear that the notion Americans are consuming less dairy products is truly a myth.

RECOGNITION OF SENATOR CRANSTON

The PRESIDING OFFICER. The Senator from California [Mr. CRANSTON] is recognized.

□ 1030

S. 2408—THE ANTIDUMPING ACT OF 1986

Mr. CRANSTON. Mr. President, I rise today with my colleague Senator MAX BAUCUS to introduce legislation to deal with two increasingly serious trade problems: Foreign firms which repeatedly dump products in the U.S. market, and the inability of U.S. firms injured by illegal dumping to receive adequate compensation.

In most respects, the United States has the most open market in the world. I want to keep it that way. But we can only keep the protectionist sentiment at bay if we make our trade law remedies work. They are broken.

One of my constituents put the matter this way: The owner of a Rolls Royce, having difficulty in finding a parking place, spies a handicapped only slot. He pulls in, perfectly willing to pay the minimal parking ticket fee. The price of the parking ticket is insufficient to dissuade him from parking there again—the convenience of the parking space is worth the price of

the ticket. Well, Mr. President, we want to raise the price of the parking ticket by having the car towed away.

This is essentially what our bill proposes to do. We want to make it uneconomical for foreign firms to dump the same product in our market over and over again until our industries are battered, have lost significant market share, and their competitiveness jeopardized or seriously undermined. Make no mistake, Mr. President, this is not a bill for those who want to erect import barriers. This bill is not protectionist. It is for those who want free trade. It is for industries and companies who are not asking the Federal Government for protection. They want to compete—openly and fairly. They are prepared to fight the fair fight.

The lack of our ability to enforce our own trade laws jeopardizes free trade around the world. It is becoming increasingly difficult to be an advocate of free trade when foreign countries flagrantly and defiantly violate our own laws. And we let them get away with it time and time and time again.

The Baucus-Cranston bill would make it more costly for foreign firms to continue to dump their products in our market. In addition, for the first time, it would permit U.S. companies to seek compensation through the U.S. Court of International Trade for damages they suffered due to illegal dumping practices.

It remedies the first situation by progressively increasing penalties associated with repeat dumping offenders. For a first time offender, present law would apply. That is, if the Department of Commerce and the International Trade Commission find that dumping has occurred, countervailing duties are imposed against the dumped goods equal to the difference between their export price and their fair market value in the exporter's country. For a second time offender in the same product category, the foreign manufacturer would be assessed an additional penalty equal to 50 percent of the fair market value of the imported products. Normal antidumping duties would also be imposed. For a third or more offense, the penalty would be increased to 100 percent of the value of the dumped imports, in addition to routine countervailing duties.

Illegal dumping is a serious problem. For example, more than 64,000 jobs have been lost in the U.S. semiconductor industry in the past year and an estimated 10,000 in my home State of California. In 1985 alone, antidumping proceedings were initiated in three separate cases concerning different types of memory chips. Preliminary findings of dumping have been found against seven Japanese companies in each of these product categories. In other words, in 21 separate instances.

These are not isolated cases. In the early 1970's the United States color television industry proved that Japanese companies were dumping color television sets in the United States. As we now know, the United States was eventually driven from color television production. By the time duties were imposed to counter this predatory practice, the domestic industry had already suffered irreversible damage. The significance of this is that this happened despite the fact that the dumping duties were among the largest ever assessed by the Federal Government. We cannot continue to permit our industries to be cannibalized and destroyed. To permit these unfair trading practices to continue jeopardizes our future in the information industries—now projected to be a trillion dollar market for the 1990's and currently America's largest manufacturing sector.

Effective targeting strategies by foreign countries are the primary industrial development strategy of the postwar period. Efforts were first directed to steel, ships, and autos, and later to consumer electronics, machine tools, and semiconductor industries.

As we have seen, the penalties imposed by dumping rulings have repeatedly proven to be too little too late. In many cases, U.S. industry has been severely—and irreversibly—injured. We must impose a penalty great enough to deter this type of illegal behavior. We believe increasing penalties for repeat offenders of dumping will offset the harmful effects of foreign government targeting programs.

Second, the Baucus-Cranston bill proposal would permit a U.S. company which has been injured by the dumping practices of a foreign firm to pursue compensation through the U.S. Court of International Trade. To pursue this remedy, the Department of Commerce and the International Trade Commission must have made an affirmative finding of dumping. This is required because we do not intend that this procedure become a separate alternative for U.S. companies to bypass or to reverse findings they find unsatisfactory. We should revise our antidumping statutes if that is the problem. We do not intend to create a two-track system for companies to pursue. We simply want to ensure that U.S. companies that have been injured receive compensation for this injury. The exact amount of any award would be determined by the Court of International Trade, according to the merits of the individual case.

I believe there is an obvious anomaly in the workings of our antidumping process in that individual firms suffer the losses of unfair dumping practices and must demonstrate injury to the industry, but the damages, awarded in the form of increased duties, are retained by the Federal Government. Our bill would provide that upon imposition of antidumping duties as under current law, the affected firm(s) could either allow the imposition of antidumping duties as under current law or seek compensation from the dumping foreign producers through the U.S. Court of International Trade. If the second course is chosen, antidumping duties would be collected and accumulated in a separate fund in the U.S. Treasury to be used to help satisfy a subsequent court award against the defendant. Such duties would only be collected from the foreign producer, not the importer of record. This is to ensure that the remedy runs against the dumping foreign producers rather than the middlemen or U.S. consumers.

Effective trade remedies are essential if U.S. industry is to compete in the global marketplace. We cannot encourage more free trade unless our industries have effective remedies when faced with blatantly unfair trade practices. We must have procedures that bring relief to an industry before injury becomes irreversible. We need procedures that maximize equity and minimize judicial recourse. We need remedies that do not distort trade. We believe the Baucus-Cranston bill meets these objectives by dealing firmly with the problem of repeat offenders of dumping and providing an opportunity for U.S. firms injured by dumping practices to receive adequate compensation to regain their competitive position.

I urge my colleagues to join with me and Senator BAUCUS to cosponsor this initiative.

Mr. BAUCUS. Mr. President, Bob Dylan once wrote, "The times they are a-changing."

Mr. President, the times certainly are "a-changing."

When the GATT international trade code was written, the fastest computer made 5,000 computations per second. Now, we routinely calculate computations in nanoseconds—that is, in billionths of a second.

But our trade laws have not kept pace. Our trade competitors invent new loopholes faster than we can close them.

We saw one clever new form of unfair trade practice in the Hitachi case—the 64K RAM case.

The scheme is simple.

The Japanese dump high-technology products on the U.S. market. The U.S. industry eventually files a trade case. Many months later, the International Trade Administration grants relief.

But here is the catch: By the time relief is granted, the foreign company has introduced a new generation of technology that escapes the antidumping order.

In short, we are playing a frustrating and futile game of catchup.

And this problem is not insignificant. No fewer than eight major Japa-

nese companies are multiple dumping offenders.

MULTIPLE OFFENDERS

The bill I am introducing today would provide escalating offenses for foreign companies found guilty of multiple dumping within a 10-year period.

First-time offenders would be treated as under current law.

Second-time offenders would have fines imposed retroactively to 90 days prior to the preliminary dumping determination and, in addition to normal antidumping duties, fines would be imposed equal to 50 percent of the value of dumped imports entering the United States in the 12 months prior to the determination.

Third-time offenders would be treated the same as second-time offenders, except the fine would equal 100 percent of the value of the dumped imports.

These penalties sound tough, and they are.

But they are also reasonable.

Companies that keep dumping are not innocent babes. They are repeat offenders, and we should not let them off the hook just because fast-changing technology outpaces slow moving trade litigation.

COMPENSATION FOR INJURED PARTIES

That is not the only reason our antidumping laws are outdated.

Dumping actions also have become prohibitively expensive.

Private industries today are required to spend hundreds of thousands of dollars to prove injury through dumping, but the damages, awarded in the form of increased duties, are retained by the Federal Government.

As a result, many cases are never brought, and foreign dumping continues undeterred.

Our legislation would permit companies to bring an action in the Court of International Trade for compensation for injury sustained by foreign dumping in the United States or third-country markets.

Additional damages, up to three times the amount of the actual injury, could be awarded by the court when a foreign company is a multiple offender, or where the dumping eliminated U.S. companies, substantially deterred U.S. research and investment, or substantially injured or destroyed the U.S. industry or a significant portion of it.

Here is the way it would work.

If a company sought compensation, duties collected from the ITA and ITC determination would be collected in a separate Treasury fund.

These duties would only be collected from the foreign producer, not the importer of record, to ensure that the remedy runs against the foreign producers rather than middlemen or U.S. consumers.

The original dumping determination in the ITA and ITC would be deemed conclusive proof of dumping, and the court's inquiry would be limited to the scope of damages to be awarded.

Additional parties could later be joined and additional damages awarded, where appropriate.

CONCLUSION

This legislation provides American industries with a real chance to secure relief from foreign dumping practices.

But it provides another advantage.

For years now, we have been struggling to find a way to eliminate unfair trade practices without restricting imports.

Those of us involved in trade policy realize that—time and time again—restricting imports causes our consumers more harm than the foreign country.

In short, we cut off our nose to spite our face.

This legislation provides a creative opportunity to avoid that dilemma.

Under this legislation, we can deter the foreign producer from dumping products in the U.S. market without imposing trade restrictions.

Mr. President, I think this offers a new approach to trade policy, not only in the dumping area, but in other areas of trade law.

Mr. President, the times certainly are "a-changing." I am proud to offer this legislation to make our trade laws keep pace with the times.

ANTIDUMPING ACT OF 1986

Mr. BINGAMAN. Mr. President, I am pleased to support and to add my name as a cosponsor of the legislation introduced today by the distinguished senior Senator from California [Mr. CRANSTON] the Antidumping Act of 1986. He is to be commended. His leadership in helping the semiconductor industry and his work to keep America competitive in this important industry is welcomed.

This legislation is badly needed to deal with the damage to the U.S. semiconductor industry by illegal foreign trade practices. For some time we have known of the unfair dumping by certain Japanese semiconductor manufacturers, yet we have been unable to address these problems under current law. If such practices are left unchecked we may not have a semiconductor industry for much longer. Like many other American industries, it faces severe competition from foreign competitors, much of it unfair.

The semiconductor industry is vital to America. It is an industry we can all be proud of. It represents the best of American technology, know-how and ingenuity. However, not only has this industry and many other American industries been hurt by our declining ability to compete, but it has been hurt by unfair foreign trading practices.

The Japanese have been the most blatant violators of fair trade in the semiconductor industry. Not only have the Japanese had the most tightly closed markets relative to access to our goods, but it has allowed some of its semiconductor companies to practice deliberate unfair trade practices. During the past decade the United States share of the Japanese semiconductor market has been capped at about 10 percent, despite talk by the Japanese Government to open its markets.

More importantly, the Japanese firms have participated in a deliberate attempt to win a greater market share in the United States and other foreign markets by selling their huge excess inventories at prices below their manufacture cost, a practice that is known as dumping and is outlawed in the United States.

As a result, several unfair trade cases have been filed and are being pursued at this time. I have wholeheartedly supported the section 301 unfair trade case filed by the entire Semiconductor Industry Association and the various antidumping cases that have also been filed by a number of the individual semiconductor companies.

Unfortunately these trade cases, while they are the appropriate avenue for redress under existing law, have yet to provide any effective solution. I recently wrote to Ambassador Yeutter, along with a number of my colleagues asking for immediate, effective action on these administrative proceedings, however, no such action has been forthcoming, despite the strength of the arguments of the semiconductor industry.

Because of this inaction, it is now necessary for the Congress to consider legislative solutions that will bring effective relief. Several existing measures, including the bill I have introduced along with Senator MITCHELL, which modifies the 301 law. I am hopeful that this and other more comprehensive trade modernization, which I also support, will be acted upon and become law this year.

As we consider such legislation we need to also include the Antidumping Act being introduced today. It effectively deals with two of the problems that have been identified. First it increases the penalties associated with repeat offenders of the current antidumping statute. Second, it would compensate those firms injured by dumping practices. Combined, these provisions would act as effective deterrents to current unfair dumping actions.

These provisions are important remedies to injured semiconductor firms as well as other industries that have suffered similar damages, such as the mining industry in my State of New Mexico. Copper, potash, and uranium have all been severely injured by

unfair trade practices, some of it illegal dumping, yet have been thwarted by the current administrative remedy process. This legislation will help change this.

Both the mining industry and the semiconductor industries in my State have suffered severely. Last year was the worst in the history of the semiconductor industry. Semiconductor companies in Albuquerque—Intel and Signetics—were particularly hard hit. Sandia Labs, which has a major semiconductor research and development facility, has also suffered. Nationally, employment in the industry last year dropped 19 percent—by 54,000 workers. In that figure were an estimated 200 layoffs and, importantly, 2,200 jobs not created as a result of failed plant expansion in Albuquerque.

I hope my colleagues will join me in supportng this legislation.

Thank you, Mr. President.

Mr. CRANSTON. 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. 2408

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

ANTIDUMPING—RIGHT TO MONEY DAMAGES

(a) Any citizen of the United States who has been injured in his business or property by the dumping of a commodity by a foreign person or persons shall have a right to money damages as provided in this section.

ANTIDUMPING—ACTIONS BY INJURED PARTIES

(b) Any petitioner in an antidumping investigation brought pursuant to Title 19 of the United States Code, Subtitle IV, Part II, which is the subject of a final affirmative determination by the Department of Commerce and the International Trade Commission, may bring an action for damages in the United States Court of International Trade without respect to the amount in controversy, and shall recover an amount equal to the damages by him sustained, the cost of the suit, including a reasonable attorney's fee, and such additional damages as the Court may deem appropriate, excepting however, that no such additional damages shall exceed threefold the damages sustained by the petitioner. For purposes of enforcing the right of action created by this section, the Court shall have jurisdiction over any foreign person or persons who produce commodities to which this section applies which are offered for sale in the United States.

(1) Such an action will lie only against an entity which has produced some or all of the commodities which are the subject of the affirmative antidumping determination, and entities in which such entity holds the principal controlling interest.

(2) In an action brought pursuant to this paragraph, the final affirmative determinations by the Department of Commerce and the International Trade Commission shall be deemed conclusive proof of the fact that actionable sales at less than fair market value have occurred.

(3) In calculating damages assessed pursuant to this section, the Court shall give regard to the injury to the petitioner or petitioners as a result of sales at less than fair market value by the defendant or defendants—

(i) from the importation of commodities at less than fair market value; and

(ii) from the importation of commodities incorporating commodities sold at less than fair market value.

(4) In calculating damages assessed pursuant to this section, the Court may give such regard to the final affirmative determination of the International Trade Commission as it deems appropriate.

(5) In actions brought pursuant to this section, process may be served on a defendant corporation in any district wherein it may be found or transacts business.

(6) In calculating whether additional damages are appropriate under this section, the Court shall give regard to whether products produced by the defendant have been the subject of previous affirmative findings of dumping, or whether the effect of dumping of a product has been to

(i) eliminate one or more U.S. companies from participation in the production of that product;

(ii) substantially deter research, development, and investment by U.S. companies in future generations of the product;

(iii) substantially injure or destroy the U.S. industry or a significant portion thereof.

(7) Following the award of damages pursuant to this section, the Court shall take such steps as are necessary to ensure that the judgment is satisfied, including:

(i) directing the Secretary of the Treasury to disburse to petitioner or petitioners such moneys as may be maintained in the special account established pursuant to paragraph (j)(ii) of this section from the collection of antidumping duties, up to the full amount of the award granted pursuant to this paragraph, provided that such payments are made only from an account consisting of the proceeds of antidumping duties assessed on the products which are the subject of the petition brought under this paragraph;

(ii) issuing a writ of execution against property, including merchandise, of the defendant; or

(iii) taking any other appropriate action within the power of the Court necessary to ensure full satisfaction of the judgment.

STAY PENDING REVIEW

(c) The Court shall stay any action for damages filed under this section based on a final affirmative determination in an antidumping investigation which is the subject of a pending review by the Court pursuant to Chapter 95 of Title 28. Such stay shall remain in effect until

(1) Review by the Court has been completed, any subsequent review of the Court's decision by the United States Court of Appeals has been completed, and the final affirmative determination remains in effect following such review, in which case the stay shall be lifted;

(2) The final affirmative determination is remanded to the Department of Commerce or the International Trade Commission for further proceedings, and

(i) such proceedings result in another final affirmative determination, whether or not such final affirmative determination is identical to the original determination, and

(ii) any further review of the remanded proceeding by the United States Court of International Trade, and any subsequent review of that Court's decision by the United States Court of Appeals for the Federal Circuit has been completed; and

(iii) following such review the final affirmative determination remains in effect; in which case the stay shall be lifted;

(3) The final affirmative determination is remanded to the Department of Commerce and the International Trade Commission for further proceedings and

(i) such proceedings result in a negative determination, and

(ii) any further review of the remanded proceeding by the Court, and any subsequent review of that Court's decision by the United States Court of Appeals for the Federal Circuit has been completed, in which case Court shall dismiss the action.

ELECTION BY PETITIONERS

(d) Within thirty days of the issuance of a final affirmative determination of dumping by the Commission, petitioner shall make an election, in writing, to the Commission, that it chooses

(1) To allow the imposition of antidumping duties pursuant to 19 U.S.C. Section 1673e; or

(2) To preserve the right to seek damages from foreign producers of the commodity which is the subject of the affirmative determination of injury, and to allow the imposition of antidumping duties as provided in paragraph (j).

(e) In cases involving multiple petitioners, the election made by the petitioner or petitioners representing the largest portion of production of the commodity within the most recent twelve month period for which data is available, as determined by the Commission, shall govern.

(f) If petitioners making an election pursuant to paragraph (d) make the election provided in paragraph (d)(1), antidumping duties shall be imposed pursuant to 19 U.S.C. Section 1673e.

(g) If petitioners making an election pursuant to paragraph (d) make the election provided in paragraph (d)(2), antidumping duties shall be imposed pursuant to 19 U.S.C. Section 1673e, excepting however, that

(i) such duties shall only be assessed against the foreign producer of the article which is the subject of the affirmative determination, or its affiliates and subsidiaries;

(ii) the duties collected shall accrue to a separate account established by the Secretary of the Treasury, and payments from that account shall be made to the petitioner or petitioners to satisfy damages awarded in an action brought pursuant to paragraph (b) of this section in the manner directed by the Court;

(iii) in collecting the duties assessed against the foreign producer pursuant to part (i) of this paragraph, the appropriate customs officer shall take such measures as are necessary to ensure that such duties are collected, including, but not limited to,

(A) seizure and liquidation of merchandise owned by the foreign producer and

(B) commencement of an action in any district court in which the foreign producer or its affiliates or subsidiaries, reside or are found or have an agent, for the purpose of levying against the property of the foreign producer, or its affiliates or subsidiaries.

CONTINUING DUMPING—ADDITIONAL DAMAGES

(h) If petitioners make the election provided in paragraph (d)(2) of this section, in each periodic administrative review conducted pursuant to 19 U.S.C. Section 1675,

(1) The Department of Commerce shall make a determination whether sales of the commodity in question at less than fair

market value have occurred during the 12-month period which is the subject of such review, and shall publish such determination in the Federal Register; and

(2) pursuant to such procedures as it may establish for the purpose, the Commission shall, in conjunction with each periodic administrative review, provide an opportunity for interested persons who were not petitioners in the original antidumping investigation to join as petitioners. For purposes of this paragraph "an interested person" is any citizen of the United States who produces the commodity which is the subject of the investigation.

(i) Any petitioner in an antidumping investigation undergoing an administrative review pursuant to 19 U.S.C. Section 1675 in which an affirmative finding of sales at less than fair market value has been made pursuant to paragraph (h) of this section may bring an action for damages in the United States Court of International Trade, without respect to the amount in controversy, and shall recover the damages sustained by him, the cost of the suit, including a reasonable attorney's fee, and such additional damages as the district court shall deem appropriate, excepting however that no such additional damages shall exceed threefold the damages sustained by the petitioner.

(1) Such an action will lie notwithstanding any action which may have been brought by petitioner or petitioners pursuant to paragraph (b) of this section.

(2) In an action brought pursuant to this paragraph, an affirmative determination of continuing sales at less than fair market value by the Department of Commerce pursuant to paragraph (h)(1) shall be deemed conclusive proof of the fact that actionable dumping has occurred.

(3) In calculating damages assessed pursuant to this section, the district court shall give regard to the injury to petitioner or petitioners as a result of sales at less than fair market value;

(i) from the importation of commodities at less than fair market value; and

(ii) from the importation of commodities incorporating commodities sold at less than fair market value

during the twelve month period which is the subject of administrative review conducted pursuant to paragraph (h)(1).

(5) In calculating whether additional damages are appropriate under this section, the district court shall give regard to whether the defendant has been the subject of previous affirmative findings of dumping, or whether the effect of dumping of a product has been to

(i) eliminate one or more U.S. companies from participation in the production of that product;

(ii) deter research, development and investment by U.S. companies in future generations of the product; or

(iii) substantially injure or destroy the U.S. industry or a significant portion thereof.

(6) The Court shall ensure satisfaction of the amount of the judgment as provided in paragraph (b)(7) of this section.

ANTIDUMPING—MULTIPLE OFFENSES

(j) If merchandise produced by any person is the subject of more than one final affirmative antidumping determination pursuant to 19 U.S.C. Section 1673d, that person shall be subject to civil penalties as provided in this section, provided that

(1) such final affirmative determinations occurred within a ten-year period; and

(2) such final affirmative determinations applied to merchandise within the scope of the same four-digit industry category of the United States Standard Industrial Classification.

For purposes of this paragraph, persons whose merchandise has been the subject of one or more affirmative determinations pursuant to 19 U.S.C. § 1673 on the date of enactment of this legislation shall be deemed to have been subject to one such determination as of the date of enactment.

(k) If merchandise described in paragraph (j) has been the subject of two final affirmative antidumping determinations, the person producing such merchandise shall be liable, upon the second final affirmative determination, for a civil penalty equal to a minimum of 50 percent of the fair market value of the merchandise produced by that person imported into the United States in the twelve months preceding the second determination with respect to which such final affirmative determination has been made. Such penalty shall be paid into such Treasury account as may be established pursuant to paragraph (g)(ii) of this section, unless no such account is established, in which case the penalty shall become part of the general revenues of the United States.

(l) If merchandise described in paragraph (j) has been the subject of three final affirmative antidumping determinations, the person producing such merchandise shall be liable, upon the third final affirmative determination, for a civil penalty equal to a minimum of 100 percent of the fair market value of merchandise produced by that person imported into the United States in the twelve months preceding the third affirmative determination with respect to which such final affirmative determination has been made. If merchandise described in paragraph (j) has been the subject of four or more affirmative dumping determinations, the producer of such merchandise shall be liable for penalties identical to those prescribed for the third affirmative determination in this paragraph for each additional affirmative determination. Such penalties shall be paid into such Treasury accounts as may be established pursuant to paragraph (g)(ii) of this section, unless no such account is established, in which case the penalty shall become part of the general revenues of the United States.

(m) The Secretary of Commerce shall maintain a list of all persons producing commodities which have been the subject of a final affirmative determination pursuant to 19 U.S.C. Section 1673d. If the Secretary determines that any person has been the subject of two or more such determinations as provided in paragraph (j) of this section, the Secretary shall commence an action in the United States Court of International Trade for the collection of penalties pursuant to paragraphs (k) and (l0 of this section, as the case may be.

(n) If merchandise produced by any person is the subject of a final antidumping determination pursuant to 19 U.S.C. Section 1673d, and a subsequent antidumping investigation is initiated with respect to merchandise produced by the same person, the administering authority shall make an affirmative determination of critical circumstances pursuant to 19 U.S.C. Section 1673b(e), provided that

(1) such antidumping investigation is initiated no later than ten years after the final antidumping determination, and

(2) the merchandise which is the subject of the antidumping investigation and the merchandise which was the subject of the final antidumping investigation are within the scope of the same four-digit industry category of the United States Standard Industrial Classification.

(o) Noting in paragraphs (j), (k) or (l) shall prevent the imposition of antidumping duties, in addition to such penalties as may be assessed pursuant to those paragraphs, in cases in which an affirmative final determination has been made pursuant to 19 U.S.C. Section 1673d.

COURT OF INTERNATIONAL TRADE—JURISDICTIONAL AMENDMENTS

(p) 28 U.S.C. Section 1581 is amended as follows:

"(k) The Court of International Trade shall have exclusive jurisdiction over civil actions for damages commenced pursuant to the Antidumping Act of 1986."

(o) 28 U.S.C. Section 1582 is amended as follows:

"(4) to recover civil penalties as provided in paragraphs (j) through (m) of the Antidumping Act of 1986."

INTERNATIONAL OBLIGATIONS

(q) No award of damages or assessment of civil penalties shall be made under any portion of this Act which is found to violate United States legal obligations under international agreements, including the General Agreement on Tariffs and Trade.

(r) To the extent that any award of damages or assessment of civil penalty pursuant to an action brought under this Act is found to have violated United States legal obligations under international agreements, the President may enter into trade agreements with the foreign country concerned for the purpose of granting new concessions as compensation for such action in order to maintain the general level of reciprocal and mutually advantageous concessions.

(s) The President shall seek to negotiate such bilateral or multilateral agreements as may be necessary to harmonize the provisions of this Act with United States legal obligations under international agreements, including the General Agreement on Tariffs and Trade.

(t) Any trade agreement entered into under paragraph (s) shall be treated as a trade agreement entered into under Section 102 of the Trade Act of 1974.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the record be left open so that other Senators may cosponsor the bill through today.

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

RECOGNITION OF SENATOR MURKOWSKI

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska [Mr. MURKOWSKI] is recognized.

THE NUCLEAR DISASTER AT CHERNOBYL

Mr. MURKOWSKI. Mr. President, reports continue to reach us which suggest that the Soviet nuclear disaster at Chernobyl may have greater long-term consequences than the

Soviet leaders have so far been willing to acknowledge.

Chernobyl is located in the heart of the Soviet Union's breadbasket—the "black earth" region of the Ukraine which has traditionally provided the great majority of Russia's food. It now appears that in that area, the earth itself may have been contaminated by radioactive fallout from the accident. Dairy herds have also been affected. At this time of year, many Russian fields lie plowed and open, making it easier for contamination to sink deeper into the soil.

If these reports are correct, the Russians could be facing an enormous human tragedy. They already have difficulty raising enough food to feed their population. The fallout from this accident could make that problem worse, perhaps much worse, for years to come.

Mr. President, as Senators know, I am a frequent critic of the Soviet system. I have condemned its repression of freedom at home and its actions in Afghanistan and Poland. But there are times when we have to set our differences aside and respond to a human tragedy.

This accident is not a political issue, it is a humanitarian one. I strongly support the President's offer to the Soviets of all possible assistance—not only to cope with the immediate problem of the reactor meltdown, but to deal with the long-term problems—including food supply—which will be faced long after nuclear fallout has been brought under control.

This is more than altruism. Our own security and safety are involved. The cloud of radioactive dust from Chernobyl is being carried around the world, to Europe, Asia, and our own homes in America. Yesterday, increased levels of this radioactivity were detected over the west coast and my own State of Alaska. This accident reminds us in the most graphic and literal terms that, in the nuclear age, the fortunes of our two countries—indeed, the entire world—are ultimately bound up together.

This could prove an historic opportunity to work together with our Soviet adversaries on a problem which threatens us both. Accidents like Chernobyl are not simply an internal Soviet problem, but an international one. What is needed is an international effort to pool our knowledge about how we can deal with it.

To do so, Mr. President, we need the Soviets' cooperation. The world is ready to help the Russian people in this time of national disaster. But the secrecy with which the Soviet leadership surrounds such tragedies makes it hard to do so. Whether it is pride, a misplaced sensitivity about security, reluctance to admit mistakes—whatever it is, this attitude is making it very difficult to get accurate information on the accident.

Mr. Gorbachev has spoken of a new openness and frankness in Soviet society. I call on him to discharge Soviet responsibilities to the international community by providing full and frank information on the dangers posed by this accident. At the same time, I urge him to accept our offer of aid in the sincere and genuine spirit in which it is made. The Soviet people need to know that America takes no joy in this tragedy. Instead, we are ready to help—with technical assistance, food, or whatever is needed—as generously as possible.

SENATOR HAWKINS' SPECIAL ORDER

The PRESIDING OFFICER. Under the previous order, the Senator from Florida (Mrs. HAWKINS) is recognized for not to exceed 5 minutes.

Mr. MURKOWSKI. Mr. President, on behalf of the junior Senator from Florida [Mrs. HAWKINS), I should like to read a statement. The statement deals with the OAS specialized conference on drug trafficking.

O.A.S. SPECIALIZED CONFERENCE ON DRUG TRAFFICKING

Mrs. HAWKINS. Mr. President, several weeks ago, I discussed the then upcoming Specialized Conference on Drug Trafficking being conducted by the Organization of American States in Rio de Janeiro. On the eve of the Conference it appeared that the O.A.S. was poised to throw its endorsement behind the war on drugs. With the completion of the Conference on Friday, we are now in a position to make a sober assessment of its accomplishments.

First, it is important to note that this was the first Conference ever conducted by the O.A.S. on this vital issue, and in all likelihood such a conference could not have been conducted even 5 years ago. There has been a dramatic change in perceptions on the part of many Latin American and Caribbean countries. To a great extent this new perspective and dedication has resulted from the tragic assassination of Colombia's Minister of Justice Lara Bonilla.

Many of the South American and Caribbean nations are now using American equipment and intelligence to fight the narcotraffickers. In addition, for the first time 1985 saw bilaterial cooperation between Latin American nations without American assistance to deal with the traffickers. Colombia, Ecuador and Peru have in some cases laid aside traditional suspicion and hostility and conducted bilateral border operations to catch the traffickers and seize their assets.

Now in 1986 we see the 22 members of the O.A.S. gathered to discuss a hemispheric policy toward illegal drug use and drug trafficking. These are countries that have varying exposures to the consequences of drug trafficking as well as differing levels and contact with this sordid business. Some countries are major users of illegal drugs. Others are producers. Still others are transhipment countries or banking/laundering centers for drug money, or sources of the precursor chemicals and solvents that are necessary for the refining of cocaine. Each country has a different mix of these problems. Yet all of these countries came together and developed an action plan for hemispheric cooperation against the traffickers.

No longer is the question: Why should we care about drug trafficking? Now the question is: how can we best fight this evil business? Only a short time ago drug trafficking was considered an American problem. Now there is a growing recognition that the narco-traffickers threaten not only the United States, but like a highly-contagious disease it affects everything it touches.

One of the significant areas of agreement at the Conference was the degree to which the drug traffickers threaten the societies in which they operate. At the most fundamental level they pose a grave threat to democracy and the values of a free and open society. The drug traffickers encourage an atmosphere of corruption and violence. In a democracy the understanding between the people and their elected officials assumes that those officials will work on behalf of justice and the will of the people. Corruption eats away at this understanding. It sets up a double standard: people with enough money can violate the law and get away with it, eveyone else has to live within the law or face the penalties. This double standard corrodes the sense of justice and the social contract that the government officials have with the people.

In addition, the narcotraffickers promote violence within a society. Gangland-style murders, assassinations, and wars not only with the government but between traffickers flourish when illegal drug use and drug trafficking begin to afflict a society.

This is to say nothing of the effects on health, personal dignity and economic development. Clearly illegal drug use and drug trafficking is dangerous to the societies that permit these activities. As obvious as this has been to us here in the United States, the disasterous effects of the drug trade has only recently entered the awareness of the many in Latin America. This changed perception is one of the new factors in the war on drugs, and it is clearly reflected in the actions taken by the O.A.S.

Mr. President, it is my intention to take a closer look at the results of the O.A.S. Conference, and examine what the future may hold for hemispheric cooperation in the war on drugs.

Mr. MURKOWSKI. I yield the floor at this time.

□ 1040

RECOGNITION OF SENATOR SYMMS

The PRESIDING OFFICER. Under the previous order, the Senator from Idaho is recognized.

S. 2405—THE FEDERAL-AID HIGHWAY ACT OF 1986

Mr. SYMMS. Mr. President, today I am introducing the Federal-Aid Highway Act of 1986, which will provide authorizations for the Federal-Aid Highway Program for fiscal years 1987 through 1990. I am pleased that the chairman of the Environment and Public Works Committee, Senator STAFFORD, the ranking member of the committee, Senator BENTSEN, the

ranking member of the Subcommittee on Transportation, Senator BURDICK, and a distinguished member of the Subcommittee on Transportation, Senator ABDNOR, have joined as cosponsors of this bill.

The Federal-Aid Highway Program must be reauthorized by October 1, 1986, in order for any additional highway authorizations to be given to the States. It is vitally important that Congress meet the October 1 deadline and complete action on a highway reauthorization bill so that the Highway Program is not disrupted.

The bill which I am introducing today is the result of nine hearings both the Subcommittee on Transportation and the full Environment and Public Works Committee have held beginning in July of 1985, and it will be the basis for the Environment and Public Works Committee's consideration of highway reauthorization legislation.

Mr. President, the Federal-Aid Highway Act of 1986 provides $52,386,000,000 in new authorizations for the Highway Program during fiscal years 1987 through 1990. All 50 States, the District of Columbia, Puerto Rico and the Territories participates in the Highway Program.

Since 1956 and the creation of the highway trust fund, one of our country's highest transportation priorities has been the construction of the national system of interstate and defense highways. The interstate system has been one of our country's most noteworthy successes, and that major undertaking is now nearly complete. In order to provide the States with flexibility in determining whether the remaining interstate construction work should be completed, or whether reconstruction of the existing Interstate System and work on the primary system has a higher priority, this bill provides a combined interstate-primary category funded at $8.15 billion per year.

Funds in this combined category can be spent on any construction or reconstruction project, any interstate 4R project, or any construction or reconstruction project on the primary system. This restructuring of the program will enable those States which want to make a concerted effort to complete the Interstate System by 1990 to do so. There may be other States which believe further work on their Interstate System will not provide as many benefits as necessary reconstruction of existing Interstate segments or work on the primary system. These States may determine the Interstate System is complete and focus their resources on Interstate 4R work and the primary system.

One of the most important features of this bill is the elimination of the need for any future congressional approval of the interstate cost estimate [ICE] or interstate substitute cost estimate [ISCE]. The bill directs the Department of Transportation to administratively adjust the ICE and ISCE which was approved by the Congress last September and which was used to apportion interstate construction funds on October 1, 1986. The adjusted ICE and ISCE will then be used to apportion interstate construction and interstate substitute funds for fiscal years 1987 through 1990. This will assure a stable, reliable source on interstate funds for the States. States will know exactly how much interstate money they will receive over the next 4 years and will be able to plan accordingly, particularly if they want to use their ability to prefinance interstate projects with State funds.

According to the latest interstate cost estimate [ICE] approved by Congress, 25 States are now half percent States, which means that their Interstate System is nearly completed. Most of the remaining States have indicated that they can complete their remaining interstate construction work by 1990. This bill continues the commitment to complete the interstate by 1990. After 1990, however, I believe it is important to move on and address other pressing highway needs that have been neglected during the construction of the Interstate System.

This legislation also continues a strong Federal participation in the Bridge, Interstate Substitution, Secondary, Urban, Federal Lands, Minimum Allocation, and Safety Programs. Mr. President, I ask unanimous consent that a table showing the authorizations for each category be printed in the RECORD.

With increasing highway needs and limited revenues, it is important to provide the States with as much spending flexibility as possible. The bill provides additional flexibility in several areas including total transfer between interstate construction, interstate 4R and primary funds; a transfer of up to 50 percent between urban and secondary program funds; the use of interstate substitute highway funds on any public road; extension of availability of interstate construction funds to 4 years and interstate substitute funds to 2 years; permitting States to use a State only funded bridge program as matching funds for their Federal-Aid Bridge Program; and permitting up to 10 States to participate in a demonstration block grant program.

This bill provides for several new programs that I believe will significantly improve the effectiveness of the Federal-Aid Highway Program. First, the new interstate-primary category will provide the States with the ability to complete the Interstate System by 1990 or to transfer these funds to higher priority interstate 4R or primary system projects. Second, a major new research program, the Strategic Highway Research Program [SHRP], is authorized. This program is the largest undertaking of highway research since the AASHTO road test in the 1950's. With limited resources, it is extremely important to have the best information and technology available to make certain that our highway dollars are buying facilities that will serve us well and long.

The legislation also authorizes a new program which will provide us with information in determining the structure of the Federal-Aid Highway Program after 1990 and the completion of the Interstate System. It permits up to 10 States to participate in a demonstration modified block grant program including the Secondary, Urban and Off-System Bridge Programs. It will provide State and local officials with additional authority to allocate resources and assume responsibilities previously delegated to the Secretary of Transportation.

Finally, this bill provides that each State will receive at least 85 percent of its contribution to the mass transit trust fund. This applies the concept of equity that was recognized for the highway account of the trust fund in the STAA of 1982 to the mass transit account as well. The receipts into the mass transit account are derived from users of the highway. Since the gas tax was increased and the mass transit account was established in the STAA of 1982, only a few States have received the major benefits from these user fees. Highway users in a majority of the States have seen little, if any, benefit from their highway user fees which have gone into the mass transit account. The mass transit minimum allocation provision will assure all States, and the highway users in those States, a return of at least 85 percent of their contribution to the mass transit account for use on transit or highway projects.

Mr. President, I stated earlier that this bill will provide over $52 billion in new authorizations for the Federal-Aid Highway Program. This is a significant amount. However, the highway account of the trust fund has a current balance which exceeds $9 billion. According to the Congressional Budget Office [CBO], the highway account could support a highway program of approximately $13.8 billion per year over the next 4 years. The $13.8 billion amount assumes the continuation of all existing exemptions including gasohol and oil prices of over $28 per barrel. With lower oil prices and the resulting increased use of gasoline, CBO estimates that revenues into the highway trust fund will increase. If that happens, the trust fund could support even more than $13.8 billion per year.

I believe Members of Congress, the President, and the American people

supported the increased highway user fees in the STAA of 1982 because everyone believed that these user fees would all be spent on our roads and bridges. We read about and experienced first hand, the dramatic deterioration of the Nation's infrastructure, and we believed that increased gas and truck taxes would result in an improved and more efficient network of roads.

In fact, funding for the highway program has increased since 1982, and we have seen significant improvements in the condition of our highways. However, spending constraints, imposed by Congress as part of an overall deficit reduction effort, have limited the States ability to keep pace with construction and maintenance requirements in most program categories.

Significant highway needs remain unmet across the country: $12 to $15 billion is needed to complete the Interstate System; $48.3 billion is needed to repair and replace deficient bridges; $20 billion is needed to address existing interstate 4R needs; over 200,000 miles of the primary system will need capital investments during the next 15 years; and over $6 billion per year is needed to maintain existing conditions on the urban and secondary systems.

Total travel in 1983 was 1.65 trillion miles, a 6.4-percent increase over 1981. Highway travel is expected to keep growing at a 2.0 to 2.74-percent rate between now and the year 2000. By the year 2000, America's roads will have to carry 40- to 60-percent more travel than in 1984.

In light of the tremendous highway needs, coupled with the fact that the highway program is 100 percent user financed and cannot deficit spend because of the Byrd amendment, I believe that the spending constraints of prior years are no longer defensible. The annual funding level of $13 billion contained in this bill is a good starting point, but I believe it should be only a starting point. During our committee's consideration of this bill, I will propose an amendment to increase highway funding to a level which will spend trust fund receipts, including interest, and significantly reduce the cash balance in the account over the next 4 years.

There are several other areas of the highway program that I believe should be addressed further during the committee's consideration of this bill. The first area is the Disadvantaged Business Enterprise [DBE] Program. This bill continues the DBE Program with several modifications. I believe there is overwhelming support in Congress to open the door of opportunity to everyone. Any individual or group's effort to achieve greater economic status invigorates our national economy and strengthens our political institutions. There continues to be strong disagreement, however, on the proper means of achieving this worthy goal.

I believe the DBE Program in its current form violates constitutional guarantees of due process and equal protection under law because it grants disadvantaged status—and, thereby, preferential treatment—to individuals based solely on their race. Moreover, in practice, many States seem to have used this program to establish a quota system for the award of Federal-aid contracts. For both of these reasons, I will offer an amendment to eliminate the DBE Program during committee consideration of the bill.

I also believe changes should be made to the 55-mile per hour speed limit. I am a cosponsor of S. 329, a bill introduced by my distinguished colleague from Nevada, Senator HECHT. S. 329 would permit States to raise the speed limit on rural highways to 65 miles per hour. While a majority of Americans say they support 55, approximately three-quarters of the driving public exceeds the 55 miles per hour speed limit when traffic and highway conditions permit.

Our Interstate System was specifically built to be safe at speeds of 70 to 75 miles per hour, and there are many rural highways, particularly in the West, where traffic is minimal and the 55 miles per hour limit is unreasonably low. State transportation departments have become increasingly safety-conscious in recent years, and I believe State officials should be allowed to determine which rural highways can be driven safely at 65 miles per hour.

Finally, I believe the committee should review the costs and requirements of the Davis-Bacon Act as it applies to the Federal-Aid Highway Program. Last year, the Senate adopted a provision in the defense authorization bill to raise the Davis-Bacon threshold of application to $1 million on defense construction contracts. That same provision, applied to the Highway Program would save approximately $1.475 billion in budget authority and $835 million in outlays over the next 4 fiscal years, according to CBO. In the present budgetary climate, I believe the committee should consider Davis-Bacon reform as a means of achieving significant and justifiable savings in the highway program.

Mr. President, I am pleased to introduce this legislation today. I believe it is extremely important that we meet the goal of having a highway reauthorization measure signed into law by October 1. I urge my colleagues to help us reach that goal.

I ask unanimous consent that the text of the bill 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. 2404

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal-Aid Highway Act of 1986".

AUTHORIZATIONS

SEC. 102. The following sums are hereby authorized to be appropriated out of the Highway Trust Fund other than the Mass Transit Account:

(1) For the Federal-aid Interstate-Primary program $8,150,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(2) For the Federal-aid urban system $750,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(3) For the Federal-aid secondary system in rural areas $600,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(4) For bridge replacement and rehabilitation under section 144 of title 23, United States Code, $1,500,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990. All but $200,000,000 per fiscal year of each such authorization shall be apportioned as provided in 23 U.S.C. 144(e). Such $200,000,000 shall be obligated as provided in 23 U.S.C. 144(g)(2). The minimum percentage off-system bridge provisions of 23 U.S.C. 144(g)(2) shall continue effective in fiscal years 1987, 1988, 1989, and 1990.

(5) For carrying out the Federal lands highway program under section 204 of title 23, United States Code—

(A) For forest highways, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(B) For public lands highways, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(C) For Indian reservation roads, $75,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(D) For park roads and parkways $75,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(6) For carrying out the territorial highway program under section 215(a) of title 23, United States Code—

(A) For the Virgin Islands, $5,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(B) For Guam, $5,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(C) For American Samoa, $1,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(D) For Commonwealth of the Northern Mariana Islands, $1,000,000 per fiscal year for each of the fiscal years ending Septem-

ber 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(7) For carrying out section 402 of title 23, United States Code (relating to highway safety construction programs), by the Federal Highway Administration, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(8) For carrying out sections 307(a) and 403 of title 23, United States Code (relating to highway safety research and development), by the Federal Highway Administration, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(9) For projects for the elimination of hazards under section 152 of title 23, United States Code $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

(10) For projects for the elimination of hazards of railway-highway crossings on any public road under under section 130 of title 23, United States Code, $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

INTERSTATE SUBSTITUTE PROGRAM

SEC. 103. Section 103(e)(4) of title 23, United States Code, is amended to read as follows:

"(4) INTERSTATE SUBSTITUTE PROGRAM.—

"(A) WITHDRAWAL OF APPROVAL.—Upon the joint request of a State Governor and the local governments concerned, the Secretary may withdraw approval of any route or portion thereof on the Interstate System which was selected and approved in accordance with this title, if the Secretary determines that such route or portion thereof is not essential to completion of a unified and connected Interstate System and if the Secretary receives assurances that the State does not intend to construct a toll road in the traffic corridor which would be served by the route or portion thereof.

"(B) SUBSTITUTE PROJECTS.—When the Secretary withdraws approval under this paragraph, a sum equal to the Federal share of the cost to complete the withdrawn route or portion thereof, as that cost is included in the latest Interstate System cost estimate approved by Congress, or up to and including the 1983 Interstate Cost Estimate, whichever is earlier, subject to increase or decrease, as determined by the Secretary based on changes in construction costs of the withdrawn route or portion thereof as of the date of approval of each substitute project under this paragraph, or the date of approval of the 1983 Interstate Cost Estimate, whichever is earlier, shall be available to the Secretary to incur obligations for the Federal share of either public mass transit projects involving the construction of fixed rail facilities or the purchase of passenger equipment including rolling stock, for any mode of mass transit, or both, or highway construction projects on any public road or both, which will serve the area or areas from which the Interstate route or portion thereof was withdrawn, which are selected by the responsible local officials of the area or areas to be served, and which are selected by the Governor or the Governors of the State or States in which the withdrawn route was located if the withdrawn route was not within an urbanized area or did not pass through and connect urbanized areas, and which are submitted by the Governors of the States in which the withdrawn route was located.

"(C) DEADLINE FOR WITHDRAWAL.—The Secretary shall not approve any withdrawal of a route under this paragraph after September 30, 1983, except that with respect to any route which on November 6, 1978, is under judicial injunction prohibiting its construction the Secretary may approve withdrawals until September 30, 1986, and except that with respect to any route which on May 12, 1982, is under judicial injunction prohibiting its construction, the Secretary may approve withdrawals on such route until September 30, 1985.

"(D) PROJECT APPROVAL; FEDERAL SHARE.—Approval by the Secretary of the plans, specifications, and estimates for a substitute project shall be deemed to be a contractual obligation of the Federal Government. The Federal share of each substitute project shall not exceed 85 percent of the cost thereof.

"(E) Availability of Funds for Substitute Projects.—

"(i) TIME PERIOD.—The sums apportioned and the sums allocated under this paragraph for public mass transit projects or for projects under any highway assistance program shall remain available in the State of apportionment or allocation for the fiscal year for which apportioned or allocated, as the case may be, and for the succeeding fiscal year.

"(ii) REAPPORTIONMENT OR REALLOCATION.—Any sums which are apportioned or allocated to a State and are unobligated (other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a substitute project which has been submitted by the State to the Secretary for approval) at the end of the period of availability shall be apportioned or allocated, as the case may be, among those States which have obligated all sums (other than such an amount) apportioned or allocated, as the case may be, to them. Such reapportionments shall be in accordance with the latest adjusted estimate of the cost of completing substitute projects, and such reallocations shall be at the discretion of the Secretary.

"(F) ADMINISTRATION OF TRANSIT FUNDS.—The sums obligated for mass transit projects under this paragraph shall become part of, and be administered through, the Urban Mass Transportation Fund.

"(G) AUTHORIZATION OF APPROPRIATIONS FOR HIGHWAY PROJECTS.—For the fiscal year ending September 30, 1982, $257,000,000 shall be available out of the Highway Trust Fund for expenditure at the discretion of the Secretary for projects under highway assistance programs. There shall be available, out of the Highway Trust Fund (other than the Mass Transit Account), to the Secretary for expenditure under this paragraph for projects under highway assistance programs $700,000,000 per fiscal year for each of the fiscal years ending September 30, 1984, and September 30, 1985, and $725,000,000 for the fiscal year ending September 30, 1986, and $650,000,000 per fiscal year for each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990.

"(H) DISTRIBUTION OF SUBSTITUTE HIGHWAY FUNDS.—

"(i) BETWEEN DISCRETIONARY AND APPORTIONED PROGRAMS.—Twenty-five percent of the funds made available by subparagraph (G) for each of the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990, for substitute highway projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 75 percent of such funds shall be apportioned in accordance with cost estimates.

"(ii) 1984 APPORTIONMENT.—The Secretary shall make an estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of enactment of the Highway Improvement Act of 1982. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for the fiscal year ending September 30, 1984.

"(iii) 1985 AND 1986 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute highway projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute highway projects for the fiscal years ending September 30, 1985 and September 30, 1986.

"(iv) SUBSEQUENT APPORTIONMENTS.—In September of 1986 and every September thereafter, the Secretary shall adjust the Interstate substitute cost estimate established in revised Tables 3 and 4, Committee Print 99-69 of the Senate Committees on Environment and Public Works and on Banking, Housing, and Urban Affairs to reflect (1) changes in the amounts available to the Secretary, (2) changes in the State estimates in the division of funds between substitute highway and transit projects, (3) approval of substitute projects, and (4) the allocation and apportionment of substitute highway funds in prior fiscal years and shall use the Federal share of such adjusted estimates in making apportionments for substitute highway projects for fiscal years subsequent to the fiscal year ending September 30, 1986.

"(I) AUTHORIZATION OF APPROPRIATIONS FOR TRANSIT PROJECTS.—There are authorized to be appropriated for liquidation of obligations incurred for substitute transit projects under this paragraph the sums provided in section 4(g) of the Urban Mass Transportation Act of 1964.

"(J) DISTRIBUTION OF SUBSTITUTE TRANSIT FUNDS.—

"(i) BETWEEN DISCRETIONARY AND APPORTIONED PROGRAMS.—Fifty percent of the funds appropriated for each fiscal year beginning after September 30, 1983, for carrying out substitute transit projects under this paragraph shall be distributed at the discretion of the Secretary. The remaining 50 percent of such funds shall be apportioned in accordance with cost estimates approved by Congress.

"(ii) 1984 APPORTIONMENT.—The Secretary shall make an estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives as soon as practicable after the date of the enactment of the Highway Improvement Act of 1982. Upon approval of such cost estimate by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal year ending September 30, 1984.

"(iii) 1985 and 1986 APPORTIONMENTS.—The Secretary shall make a revised estimate of the cost of completing substitute transit projects under this paragraph and transmit the same to the Senate and the House of Representatives within ten days subsequent to January 2, 1984, and upon approval by Congress, the Secretary shall use the Federal share of such approved estimate in making apportionments for substitute transit projects for the fiscal years ending September 30, 1985, and September 30, 1986.

"(iv) SUBSEQUENT APPORTIONMENTS.—In September 1986 and every September thereafter, the Secretary shall adjust the Interstate substitute cost estimate established in revised Tables 3 and 4, Committee Print 99-69 of the Senate Committees on Environment and Public Works and on Banking, Housing, and Urban Affairs to reflect (1) changes in the amounts available to the Secretary under this paragraph, (2) changes in State estimates of the division of funds between substitute highway and transit projects, (3) approvals of substitute projects, and (4) the allocation and apportionment of substitute transit funds in prior fiscal years and shall use the Federal share of such adjusted estimate in making apportionments for substitute transit projects for fiscal years subsequent to the fiscal year ending September 30, 1986.

"(K) REDUCTION OF INTERSTATE APPORTIONMENT.—

"(i) IN GENERAL.—Unobligated apportionments for the Interstate System in any State where a withdrawal is approved under this paragraph shall, on the date of such approval, be reduced in the proportion that the Federal share of the cost of the withdrawn route or portion thereof bears to the Federal share of the total cost of all Interstate routes in that State as reflected in the latest cost estimate approved by the Congress.

"(ii) EXCEPTION.—In any State where the withdrawal of an Interstate route or portion thereof has been approved under this paragraph prior to the date of the enactment of the Federal-aid Highway Act of 1976, the unobligated apportionments for the Interstate System in that State on such date of enactment shall be reduced in the proportion that the Federal share of the cost to complete such route or portion thereof, as shown on the latest cost estimate approved by Congress prior to such approval of withdrawal, bears to the Federal share of the cost of all Interstate routes in the State, as shown on such cost estimate; except that the amount of such proportional reduction shall be credited with the amount of any reduction in such State's Interstate apportionment which was attributable to the Federal share of any substitute project approved under this paragraph prior to enactment of such Federal-Aid Highway Act.

"(L) APPLICABILITY OF URBAN MASS TRANSPORTATION ACT.—

"(i) SUPPLEMENTARY FUNDS.—Funds available for expenditure to carry out the purposes of this paragraph shall be supplementary to and not in substitution for funds authorized and available for obligation pursuant to the Urban Mass Transportation Act of 1964, as amended.

"(ii) LABOR PROTECTION.—The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph.

"(M) LIMITATION ON INTERSTATE DESIGNATIONS.—After the date of enactment of the Federal-Aid Highway Act of 1978, the Secretary may not designate any mileage as part of the Interstate System pursuant to this paragraph or under any other provisions of law. The preceding sentence shall not apply to a designation made under section 139 of this title.

"(N) OPEN TO TRAFFIC REQUIREMENT.—After September 30, 1979, the Secretary shall not withdraw approval under this paragraph of any route or portion thereof on the Interstate System open to traffic before the date of the proposed withdrawal. Any withdrawal of approval of any such route or portion thereof before September 30, 1979, is hereby determined to be authorized by this paragraph.

"(O) LIMITATION OF SUBSTITUTION FOR STATUTORILY DESIGNATED ROUTES.—Any route or segment which was statutorily designated after March 7, 1978, to be on the Interstate System shall not be eligible for withdrawal or substitution under this subsection.

"(P) RIGHT-OF-WAY PAYBACK.—Of sums made available to the Secretary under this paragraph for a State, an amount equal to the amount expended in Federal funds to purchase right-of-way for the withdrawn route or portion thereof in every case where right-of-way has not been disposed of by the State as of the date of enactment of this sentence shall not be available for release by the Secretary until the right-of-way disposition decision has been made in accordance with 103(e)(5)(B), (6)(B), or (e)(7) of this title. The amount apportioned to each eligible State pursuant to this paragraph shall be based on the full remaining value of the sums made available under this paragraph as determined by the Secretary but the total of such apportionments shall not exceed the remaining value of such sums less the amount unavailable for release by the Secretary. Sums retained by the Secretary shall be made available for apportionment upon partial or full repayment of funds in accordance with section 103(e)(7) of this title or upon determination by the Secretary that, under section 103(e)(5)(B) or (6)(B), repayment is not required.",

APPORTIONMENT

SEC. 104. Section 104 of title 23, United States Code, is amended by:

(a) Striking in paragraph (f)(1) ", except that in the case of funds authorized for apportionment on the Interstate System, the Secretary shall set aside that portion of such funds (subject to the overall limitation of one-half of 1 per centum) on October 1 of the year next preceding the fiscal year for which such funds are authorized for such System." and inserting in lieu thereof a period and by relettering subsection (f) as subsection (b).

(b) Adding a new subsection (c) as follows:

"(c) On October 1 of each of the fiscal years, ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990, the Secretary, after making deductions authorized by subsections (a) and (b) of this section, shall deduct one-quarter per centum of the remaining funds authorized to be appropriated for that fiscal year for the Federal-aid Interstate-Primary program, the urban system, the secondary system, bridge replacement and rehabilitation, Interstate Substitution highway projects, projects for the elimination of hazards of railway-highway crossings, and for the projects for the elimination of hazards under section 152 of this title for the purpose of carrying out the objectives of the Strategic Highway Research Project under section 133 of this title."

(c) Repealing existing subsections (c) and (d).

(d) Existing subsection (b) is amended to read as follows:

"(d) On October 1 of each fiscal year the Secretary, after making the deductions authorized by subsections (a), (b), and (c) of this section, shall apportion the remainder of the sums authorized to be appropriated for expenditure upon the Federal-aid systems for that fiscal year, among the several States in the following manner:

"(1) FOR THE FEDERAL-AID INTERSTATE-PRIMARY PROGRAM—

"(A) For each of the fiscal years 1987, 1988, 1989, and 1990 that portion of $3,000,000,000 remaining after making the deductions authorized by subsections (a), (b), and (c) of this section shall be apportioned in the ratio which the estimated cost of completing the Interstate System in each State bears to the sum of the estimated cost of completing the Interstate System in all of the States as established in revised Table 5, Committee Print 99-68 of the Senate Committee on Environment and Public Works *Provided* that the Secretary shall on October 1, 1986, before making the apportionment required by this paragraph, adjust such Interstate Cost Estimate to reflect (i) all previous credits, apportionments of Interstate construction funds and lapses of previous apportionments of Interstate construction funds, (ii) previous withdrawals of Interstate segments, (iii) previous allocations of Interstate discretionary funds, and (iv) transfers of Interstate construction funds and *Provided* that for each of the fiscal years 1987, 1988, 1989, and 1990, no State, including the State of Alaska, shall receive less than one-half per centum of the total apportionment under this paragraph (A). Whenever amounts made available under this proviso in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, rehabilitation, and reconstruction of the Interstate System within such State, the excess amount shall be eligible for expenditure on the Primary System (other than the Interstate System), urban and secondary systems and for projects for the elimination of hazards under section 152 of this title.

"(B) For each of the fiscal years 1987, 1988, 1989, and 1990 that portion of $2,800,000,000 remaining after making the deduction authorized by subsections (a), (b), and (c) of this section shall be apportioned as follows: 55 per centum in the ratio that lane miles on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 129(k) of this title) in each State bears to the total of all such lane miles in all States; and 45 per centum in the ratio that vehicle miles traveled on lanes on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 129(k) of this title) in each State bears to the total of all such vehicle miles in all States. Notwithstanding the preceding sentence, no State excluding any State that has no Interstate lane miles shall receive less than one-half of one per centum of the total apportionment made by this subparagraph for any fiscal year.

"(C) Before making the apportionment under this paragraph (C), the Secretary shall set aside such sums as are necessary to carry out the provisions of subparagraph (C)(iv). For each of the fiscal years 1987,

1988, 1989, and 1990 that portion of $2,350,000,000 remaining after such set aside and after the deductions authorized by subsections (a), (b), and (c) of this section shall be apportioned as follows:

"(i) The Secretary shall determine for each State the higher of the amount which would be apportioned to such State under a formula where (I) two-thirds would be apportioned, one-third in the ratio which the area of each State bears to the total area of all the States, one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census, and one-third in the ratio which the mileage of rural delivery routes and intercity mail routes where service is performed by motor vehicles in each State bears to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, as shown by a certificate of the Postmaster General, which he is directed to make and furnish annually to the Secretary; and one-third in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census with no State (other than the District of Columbia) to receive less than one-half per centum of each year's apportionment and the amount which would be apportioned to such State under a formula where (II) each State would be apportioned one-half in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census and one-half in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census.

"(ii) The Secretary shall total the amounts determined for each State under paragraph (i) and shall determine the ratio which the amounts apportioned under this paragraph (C) bears to such total.

"(iii) The amount which shall be apportioned to each State under this paragraph (C) shall be the amount determined for such State under paragraph (i) multiplied by the ratio determined under paragraph (ii).

"(iv) No State shall receive an apportionment under this paragraph (C) which is less than the lower of (I), the amount which the State would be apportioned under the formula in paragraph (i)(I), and (II), the amount which the State would be apportioned under the formula in paragraph (i)(II). No State shall receive less than one-half per centum of the total apportionment under this paragraph (C).

"(2) For the Federal-aid secondary system:

One-third in the ratio which the area of each State bears to the total area of all the States; one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all of the States as shown by the latest available Federal census; and one-third in the ratio which the mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, certified as above provided, in each State bears to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles in all the States. No State (other than the District of Columbia) shall receive less than one-half of one per centum of each year's apportionment.

"(3) For the Federal-aid urban system:

In the ratio which the population in urban areas, or parts thereof, in each State bears to the total population in such urban areas, or parts thereof, in all the States as shown by the latest available Federal census. No State shall receive less than one-half of one per centum of each year's apportionment.".

(e) Subsection (e) is amended to read as follows:

"(e) on October 1 of each fiscal year the Secretary shall certify to each of the State highway departments the sums apportioned hereunder to each State for such fiscal year, and also the sums which have been deducted pursuant to subsections (a), (b), and (c) of this section. To permit the States to develop adequate plans for the utilization of apportioned sums, the Secretary shall advise each State of the amount that will be apportioned each year under this section not later than ninety days before the beginning of the fiscal year for which the sums to be apportioned are authorized.".

(f) Existing subsection (g) is amended to read as follows:

"(f) Not more than 40 per centum of the amount apportioned in any fiscal year to each State in accordance with sections 130, 144, and 152 of this title, may be transferred from the apportionment under one section to the apportionment under any other of such sections if such a transfer is requested by the State highway department and is approved by the Secretary as being in the public interest. The Secretary may approve the transfer of 100 per centum of the apportionment under one such section to the apportionment under any other of such sections if such transfer is requested by the State highway department, and is approved by the Secretary as being in the public interest, if the Secretary has received satisfactory assurances from such State highway department that the purposes of the program from which such funds are to be transferred have been met.".

(g) Existing subsection (h) is repealed.

(h) Subsection (h) is added as follows:

"(h)(1) The amount apportioned in any fiscal year to each State in accordance with paragraph (2) or (3) of subsection (d) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest. Funds apportioned in accordance with paragraph (3) of subsection (d) of this section shall not be transferred from their allocation to any urbanized area of two hundred thousand population or more under section 150 of this title without the approval of the local officials of such urbanized area.

"(2) In the case of transfers under paragraph (1), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 50 per centum. Not more than 50 per centum of the original amount of any apportionment for any fiscal year shall be transferred to other apportionments.".

LETTING OF CONTRACTS

SEC. 105. Section 112(b) of title 23, United States Code, is amended by inserting "or that an emergency situation exists" before the period at the end of the first sentence.

AVAILABILITY

SEC. 106. Section 118 of title 23, United States Code, is amended to read as follows:

"SEC. 118. AVAILABILITY—

"(a) On and after the date that the Secretary has certified to each State the sums apportioned or allocated pursuant to an authorization under this title such sums shall be available for obligation under the provisions of this title.

"(b)(1) Sums apportioned for the Federal-aid Interstate-primary program, for the Federal-aid secondary system and for the Federal-aid urban system in a State shall continue available for obligation in that State for the appropriate program and system for a period of three years after the close of the fiscal year for which such sums are authorized and any amounts so apportioned remaining unobligated at the end of such period shall lapse.

"(2)(A) Sums apportioned for bridge replacement and rehabilitation in a State shall remain available for obligation in that State for a period of three years after the close of the fiscal year for which the sums are authorized and any amounts apportioned remaining unobligated at the end of the period shall be allocated by the Secretary pursuant to section 144(g)(2) of this title.

"(B) Sums allocated for bridge replacement and rehabilitation in a State shall remain available for obligation in that State until the close of the fiscal year of allocation and any amount allocated remaining unobligated at the end of the period shall be reallocated by the Secretary pursuant to section 144(g)(2) of this title.

"(3) Sums apportioned or allocated for a particular purpose for any fiscal year shall be deemed to be obligated if a sum equal to the total of the sums apportioned or allocated to the State for such purpose for such fiscal year and previous fiscal years is obligated. Any funds released by the payment of the final voucher or by the modification of the formal project agreement shall be credited to the same class of funds previously apportioned or allocated to the State and be immediately available for obligation.".

INTERSTATE SYSTEM RESURFACING

SEC. 107. (a) Section 119(a) of title 23, United States Code, is amended by (1) striking "section 105 of the Federal-Aid Highway Act of 1978" and inserting in lieu thereof "section 129(k) of this title" and by (2) striking the next to the last sentence.

(b) Section 119(b) of title 23, United States Code, is amended by (1) striking "for the Interstate system shall" and inserting in lieu thereof "shall", by (2) striking "equal to 10 per centum" and inserting in lieu thereof "of not more than 10 per centum", and by (3) striking "104" and inserting in lieu thereof "104(d)(1)(A)".

(c) Section 119(d) is repealed.

FEDERAL SHARE PAYABLE

SEC. 108. (a) Subsection (a) of section 120, title 23, United States Code, is amended by striking "financed with primary" and inserting in lieu thereof "financed with Interstate-primary" and by inserting "(other than the Interstate System)" after "primary system".

(b) Subsection (b) of section 120, title 23, United States Code, is repealed.

(c) Subsection (c) of section 120, title 23, United States Code, is amended by striking "provided for by funds made available under the provisions of section 108(b) of the Federal-Aid Highway Act of 1956 shall be increased to" and inserting in lieu thereof ", as designated in section 103 of this title and as designated prior to March 9, 1984, in section 139(a) and (b) of this title financed with Interstate-primary funds shall not exceed".

(d) Subsection (f) of section 120 of title 23, United States Code, is amended by striking "shall not exceed 100 per centum of the cost thereof: *Provided*" and inserting in lieu thereof "on account of any project on a Federal-aid highway system, including the Interstate System, shall not exceed the Federal share payable of a project on a system as provided in subsections (a) and (c) of this section: *Provided*, That the Federal share payable for eligible emergency repairs to minimize damage, protect facilities or restore essential traffic accomplished within thirty days after the actual occurrence may amount to 100 per centum of the costs thereof: *And provided further*".

(e)(1) The second subsection (i), subsection (j), and subsection (k) of section 120 of title 23, United States Code, are relettered as subsection (j), (k), and (l), respectively.

(2) The second subsection (i) of section 120, title 23, United States Code, relettered as subsection (j), is amended by inserting "104(b) and" before "307(c)".

(f) Subsection (m) is added to section 120 of title 23, United States Code, as follows: "Notwithstanding other provisions of this title, a State may contribute an amount in excess of its normal share on a project constructed under this title so as to decrease the Federal share payable on such project: *Provided*, that the use of this provision shall be subject to criteria established by the Secretary.".

(g) Section 120(f) of title 23, United States Code, as amended by this section is effective for all natural disasters or catastrophic failures which occur subsequent to enactment of this Act.

RELOCATION OF UTILITY FACILITIES

SEC. 109. Section 123(a) of title 23, United States Code, is amended to read as follows:

"(a) When a State pays for the cost of relocation of utility facilities necessitated by the construction of a project on the Federal-aid primary system including the Interstate System, or under a Federal-aid program, or under the State's safety improvement program for the elimination of hazards to the traveling public resulting from the utility facilities on or near the right-of-way of highways on the Federal-aid primary system including the Interstate system, Federal funds may be used to reimburse the State for such cost in the same proportion as Federal funds are used on the project.".

EMERGENCY RELIEF

SEC. 110. Section 125 of title 23, United States Code, is amended by adding subsection (d) as follows:

"(d) For purposes of this section, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands shall be considered to be States and part of the United States, and the chief executive officer of each territory shall be considered to be a Governor of a State. The Secretary may expend funds from the sums authorized for this section for the repair or reconstruction of highways eligible for assistance under section 215 of this title: *Provided*, that obligations for projects under this subsection shall not exceed $5,000,000 in any fiscal year.".

VEHICLE WEIGHT LIMITATIONS—INTERSTATE SYSTEM

SEC. 111. Section 127(a) of title 23, United States Code, is amended by striking "authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be apportioned" and inserting in lieu thereof "shall be apportioned under section 104(d)(1)(A) of this title" and by (b) adding after the word "lapse" the following: "if not released and obligated within the availability period specified in section 118(b)(1) of this title".

TOLL FACILITIES

SEC. 112. (a) Section 129 of title 23, United States Code, is amended by adding the following new subsections:

"(j)(1) Each operator of toll roads, toll tunnels, toll ferries, and toll bridges, other than an international toll facility or toll facility subject to an agreement under this section or section 105 of the Surface Transportation Assistance Act of 1978, on a Federal-aid system in a State shall biennially certify to the Governor of the State that such facilities are adequately maintained and that the operator of such toll facility has the ability to fund the replacement or repair of any such facilities that are not adequately maintained without using Federal-aid highway funds. Failure to certify shall preclude Federal funding out of the Highway Trust Fund of any facilities owned or operated by the operator of such toll facility.

"(2) The Governor shall report biennially to the Secretary the toll facilities subject to paragraph (1) of this subsection, that have so certified and those which have not certified in accordance with paragraph (1) of this subsection. If funds from the Highway Trust Fund are used to repair or replace such toll facilities, the State's apportionments for the following fiscal year under section 104 of this title shall be reduced by the amount of Highway Trust Fund moneys expended: *Provided*, That such reduction shall not be made if the State has executed an agreement covering such toll facilities under this section or section 105 of the Surface Transportation Assistance Act of 1978.".

"(k) Sums apportioned to a State for the Federal-aid Interstate Primary program or for Interstate System resurfacing may be obligated for projects for resurfacing, restoring, and rehabilitating lanes in use for more than five years on a toll road which has been designated as a part of the Interstate System if an agreement satisfactory to the Secretary of Transportation has been reached with the State highway department and any public authority with jurisdiction over such toll road prior to the approval of such project that the toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against it, and the cost of maintenance and operation and debt service during the period of toll collections. The agreement referred to in the preceding sentence shall contain a provision requiring that if, for any reason, a toll road subject to an agreement does not become free to the public upon collection of sufficient tolls, as specified in the preceding sentence, Federal funds used for projects on such toll road pursuant to this subsection shall be repaid to the Federal Treasury and a provision requiring that if such repayment does not equal or exceed Federal funds apportioned to a State by reason of including toll road mileage in an apportionment formula, the State's apportionment shall be reduced by the amount needed to make the repayment equal such apportionment.

(b) Section 105 of the Federal-Aid Highway Act of 1978 is amended by striking the last two sentences.

RAILWAY-HIGHWAY CROSSINGS

SEC. 113. (a) Section 130 of title 23, United States Code, is amended by adding subsections (d), (e), (f), (g), and (h) as follows:

"(d) Each State shall conduct and systematically maintain a survey of all highways to identify those railroad crossings which may require separation, relocatioin, or protective devices, and establish and implement a schedule of projects for this purpose. At a minimum, such a schedule shall provide signs for all railroad-highway crossings.

"(e) At least half of the funds authorized for and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Sums authorized to be appropriated for this section shall be available for obligation in the same manner as funds apportioned under section 104(d)(1) of title 23, United States Code.

"(f) 25 per centum of the funds authorized for this section shall be apportioned to the States in the same manner as sums apportioned under section 104(d)(2) of title 23, United States Code, 25 per centum of such funds shall be apportioned to the States in the same manner as apportioned under section 104(d)(3) of title 23, United States Code, and 50 per centum of such funds shall be apportioned to the States in the ratio that total rail-highway crossings in each State bears to the total of such crossings in all States. The Federal share payable on account of any project financed with funds authorized for this section shall be 90 per centum of the cost thereof.

"(g) Each State shall report to the Secretary of Transportation not later than December 30 of each year on the progress being made to implement the railroad-highway crossings program authorized by this section and the effectiveness of such improvements. Each State report shall contain an assessment of the costs of the various treatments employed and subsequent accident experience at improved locations. The Secretary of Transportation shall submit a report to the Senate Environment and Public Works Committee and the House Public Works and Transportation Committee of the Congress not later than April 1 of each year, on the progress being made by the State in implementing projects to improve railroad-highway crossings. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, nature of treatment, and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evaluate each State program, identify any state found not to be in compliance with the schedule of improvements required by subsection (d) and include recommendations for future implementation of the railroad highway crossings program.

"(h) Funds authorized for this section may be used to provide local government with funds to be used on a matching basis when State funds are available which may only be spent when local government produces matching funds for the improvement of railroad crossings.".

(b) Section 203 of the Highway Safety Act of 1973 is repealed.

STRATEGIC HIGHWAY RESEARCH PROGRAM

SEC. 114. Title 23, United States Code, is amended by adding section 133 as follows:

"SEC. 133. (a) Strategic highway research program.

The sums provided by section 104(c) of this title shall be available for obligation

when deducted to implement the Strategic Highway Research Program (SHRP). The Secretary is authorized to carry out the SHRP in cooperation with the State highway departments, as represented by the American Association of State Highway and Transportation Officials (AASHTO). The Secretary shall set standards to use the funds under this paragraph to conduct research, development and technology transfer activities determined to be strategically important to the national highway transportation system. The Secretary may provide grants to, and enter into cooperative agreements with, AASHTO and/or the National Academy of Sciences to conduct appropriate portions of the SHRP. Advance payments may be made as necessary to facilitate such cooperative agreements. No State matching share is required for the sums made available under this section. The sums provided by this section shall be combined and administered by the Secretary as a single fund which shall be available for obligation for the same period as funds apportioned for the Federal-aid Interstate-primary program.

"(b) The Secretary shall transmit a report annually beginning on January 1, 1988, to the Senate Environment and Public Works Committee and the House Public Works and Transportation Committee of the Congress which provides information on the progress and research findings of the Strategic Highway Research Program.".

SECTION 139 ROUTES

SEC. 115. The last sentence of section 139(a), the fourth sentence of 139(b), and the last sentence of section 139(c) of title 23, United States Code, are each amended by striking "sections 104(b)(1) and 104(b)(5)(B)" and inserting in lieu thereof "section 104(d)(1)".

OFF-SYSTEM BRIDGE PROGRAM

SEC. 116. Section 144, title 23, United States Code, is amended by adding a new subsection as follows:

"(n) Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway system for the replacement of a bridge or rehabilitation of a bridge which is wholly funded from State and local sources, is eligible for Federal funds under section 144 of title 23, United States Code, is noncontroversial, is certified by the state to have been carried out in accordance with all standards applicable to such projects under section 144, and is determined by the Secretary upon completion to be no longer a deficient bridge, any amount expended after the effective date of this section, from such State and local sources for such project in excess of 20 per centum of the cost of construction thereof may be credited to the non-Federal share of the cost of the projects in such State which are eligible for Federal funds under section 144, in accordance with procedures established by the Secretary.".

ELIGIBILITY

SEC. 117. Title 23, United States Code, is amended by adding section 153 as follows:

"SEC. 153. Eligibility.

State or local taxes which are based upon the amount of a federally assisted contract or which are assessed upon construction materials to be incorporated into a federally assisted project are not items eligible for Federal reimbursement under this title."

MINIMUM ALLOCATION

SEC. 118. (a) Section 157(a) of title 23, United States Code, is amended to read as follows:

"(a) Beginning with fiscal year 1987, as soon as practicable after the date of enactment of the Federal-Aid Highway Act of 1986 and in each of the fiscal years thereafter, on October 1, the Secretary of Transportation shall allocate among the States, as defined in section 101 of this title, amounts sufficient to insure that a State's percentage of the total apportionments in each such fiscal year and allocations for the prior fiscal year for Federal-aid highway programs, except allocations for forest highways, Indian reservation roads, and parkways and park roads in accordance with section 202 of this title, highway related safety grants authorized by section 402 of this title, nonconstruction safety grants authorized by sections 402, 406, and 408 of this title, and Bureau of Motor Carrier Safety Grants authorized by section 404 of the Surface Transportation Assistance Act of 1982, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Highway Trust Fund, other than the Mass Transit Account, in the latest fiscal year for which data are available.".

(b) The amendment made by subsection (a) shall become effective on October 1, 1986.

(c) Title 23, United States Code, section 157(c) is amended by striking the "and" that precedes "September 30, 1986" and inserting after "1986" the following: ", September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990".

FEDERAL-AID INTERSTATE-PRIMARY PROGRAM

SEC. 119. Title 23, United States Code, is amended by adding section 159 as follows:

"SEC. 159

"SEC. 159. Federal-aid Interstate-primary program.

"(a) It is the national policy to bring all elements of the primary system up to standards established pursuant to section 109 of this title. To accomplish this policy the Federal-aid Interstate-primary program shall consist of projects for the construction, reconstruction, rehabilitation, restoration, and resurfacing or improvement of the primary system as designated in section 103(a) of this title and the Interstate System as designated in section 103(c)(1) and section 139 of this title.

"(b) In approving projects under this section, the Secretary shall give priority consideration to projects to complete essential gaps on the Interstate System and for the reconstruction, rehabilitation, restoration, and resurfacing of existing highway facilities. Reconstruction may include, but is not limited to, the addition of travel lanes and the construction and reconstruction of interchanges and overcrossings along existing completed Interstate routes, including the acquisition of right-of-way where necessary.".

INCOME FROM RIGHTS-OF-WAY

SEC. 120. Title 23, United States Code, is amended by adding section 160 as follows:

"SEC. 160. Income from rights-of-way.

"Net income that a State receives from the use, lease, or sale of right-of-way airspace acquired as a result of a project under this title shall be used by the State for projects eligible under this chapter."

TERRITORIAL HIGHWAY PROGRAM

SEC. 121. Subsection (f) of section 215 of title 23, United States Code, is amended to read as follows:

"(f) The provisions of chapter 1 of this title that are applicable to Federal-aid Interstate-primary program funds and to projects on the Federal-aid primary system other than the Interstate System shall apply to funds authorized to be appropriated to carry out this section, to funds obligated under this section and to projects carried out under this section except as determined by the Secretary to be inconsistent with this section. There shall be designated in each territory, a territorial Federal-aid highway system which will include all highways eligible for funding under this section. The system shall be designated by the highway department of the territory and be subject to the approval of the Secretary. Funding provided under this section shall only be available for highway construction projects on the territorial Federal-aid system.".

BICYCLE PROJECTS ELIGIBILITY

SEC. 122. The second sentence of section 217(b)(1) of title 23, United States Code, is amended by inserting "and sums apportioned or allocated for highway substitute projects in accordance with section 103(e)(4) of this title" after the word "title".

HIGHWAY PLANNING AND RESEARCH

SEC. 123. Section 307(c)(1) of title 23, United States Code, is amended by inserting after "section 104 of this title," the following: "and for highway projects, section 103(e)(4)."

NATIONAL HIGHWAY INSTITUTE

SEC. 124. Subsections (b) and (c) of section 321 of title 23, United States Code, are amended to read as follows:

"(b) Not to exceed one-quarter per centum of all Federal-aid Interstate-primary program funds, apportioned to a State under section 104 of this title shall be available for expenditure by the State highway department, subject to approval by the Secretary, for payment of not to exceed 75 per centum of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

"(c) Education and training of Federal, State, and local highway employees authorized by this section shall be provided by the Secretary at no cost to the States and local governments for those subject areas which are a Federal program responsibility, or, in the case where such education and training are to be paid for under subsection (b) of this section, by the State, subject to the approval of the Secretary, through grants and contract with public and private agencies, institutions, individuals and the Institute.".

RIGHT-OF-WAY DONATION

SEC. 125. (a) Notwithstanding any other provision of title 23, United States Code, the State matching share for a project under title 23, United States Code, my be credited by the fair market value of land incorporated into the project and lawfully donated to the State after the effective date of this subsection. For purposes of this subsection the fair market value of donated land shall be established after the date the donation becomes effective or when equitable title to the land vests in the State, whichever is earlier. This subsection shall not apply to donations made by an agency of a Federal, State or local government. The credit received by a State pursuant to this subection may not exceed the State's matching share for the project to which the donation is applied.

(b) Section 323 of title 23, United States Code, is amended by—

(1) inserting after "Donations." an "(a)"; and

(2) inserting the following new subsection:

"(b)(1) A gift or donation in accordance with subsection (a) may be made at any time during the development of a project: *Provided*, That any document executed as part of such donation clearly indicates that—

"(i) all alternatives to a proposed alignment will be studied and considered pursuant to the National Environmental Policy Act;

"(ii) acquisition of property under this subsection shall not influence the environmental assessment of a project including the decision relative to the need to construct the project or the selection of a specific location; and

"(iii) any property acquired by gift or donation shall be revested in the grantor or successors in interest if such property is not required for the alignment chosen after public hearings and completion of the environmental document.".

(c) Section 4651 of title 42, United States Code, is amended as follows:

(1) insert after "programs" in the first sentence the following "to promote joint projects between States and landowners and other entities in order to maximize Federal and State dollars";

(2) insert new paragraph (10) as follows:

"(10) Promotion of joint projects wherein private citizens and other governmental entities participate in the cost through land donations and/or financial contributions is consistent with Federal policy and should be encouraged by all Federal agencies. To this end donations of right-of-way and/or financial contributions by a State or other political subdivision, or any person is permissible.".

(d) Notwithstanding any other provision of law, the fair market value of any lands which have been or in the future are donated or dedicated to the State of California necessary for the right-of-way for relocation and construction of California State Route 73 in Orange County, California, from its interchange with Interstate Route I-405 to its interchange with Interstate Route I-5 shall be included as a part of the cost of such relocation and construction project and shall be credited first toward payment of the non-Federal share of the cost of such relocation and construction project. If the fair market value of such lands exceeds the non-Federal share of such relocation and construction project, then the excess amount, upon the request of the State of California, shall be credited toward the non-Federal share of the cost of any other project on the Federal-aid system in the State of California. To further the purposes of this section and section 323 of title 23, United States Code, any recorded irrevocable offer of dedication or donation of property within the right-of-way shall be considered as part of the State right-of-way acquisition for purposes of this section if such offer is irrevocable and effective no later than such time as the State of California requests final reimbursement for the Federal share. In no case shall the amount of Federal-aid reibursement to the State of California on account of such relocation and construction project exceed the actual cost to the State for such project.

PROHIBITION AGAINST DISCLOSURE AND ADMISSION AS EVIDENCE OF STATE REPORTS AND SURVEYS

SEC. 126. Chapter 4 of title 23, United States Code, is amended by adding section 409 as follows:

"SEC. 409. Reports, surveys; disclosures; admission as evidence.

Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled with the purpose of identifying, evaluating, or planning the safety enhancement of potential accident sites, hazardous roadway conditions, or rail-highway crossings, pursuant to sections 130, 144, and 152 of title 23, United States Code, or for the development of any highway safety construction improvement project which may be implemented utilizing Federal-aid highway funds shall not be admitted into evidence, or considered for other purposes, in any action for damages arising from any matter mentioned or addressed in such reports, surveys, schedules, lists or data.".

BUY AMERICA

SEC. 127. Section 165(a) of the Surface Transportation Assistance Act of 1982 is amended to read as follows:

"Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, the Urban Mass Transportation Act of 1964, or the Surface Transportation Assistance Act of 1978 and administered by the Department of Transportation, for projects whose total cost exceed $500,000, unless steel and manufactured products used in such projects are produced in the United States.".

REGULATION OF TOLLS

SEC. 128. (a) Section 4 of the General Bridge Act of 1906 (34 Stat. 85, 33 U.S.C. 494), as amended, is further amended by deleting the last sentence thereof.

(b) Section 17 of the Act of June 10, 1930 (46 Stat. 552, 33 U.S.C. 498a), as amended, is repealed.

(c) Section 1 of the Act of June 27, 1930 (46 Stat. 821, 33 U.S.C. 498b), as amended, is repealed.

(d) Sections 1-5 of the Act of August 21, 1935 (49 Stat. 670, 33 U.S.C. 503-507), as amended, are repealed.

(e) Sections 503 and 506 of the General Bridge Act of 1946 (60 Stat. 847, 848, 33 U.S.C. 526, 529), as amended, are repealed.

(f) Section 133 of Public Law 93-87 (87 Stat. 267, 33 U.S.C. 526a) is repealed.

(g) Section 6 of the International Bridge Act of 1972 (86 Stat. 732, 33 U.S.C. 535d) is repealed.

(h) Section 6(g)(4) of the Department of Transportation Act (80 Stat. 937, 49 U.S.C. 1655(g)(4)) is repealed.

(i) Tolls for passage or transit over any bridge constructed under the authority of the Bridge Act of 1906, as amended, the General Bridge Act of 1946, as amended, and the International Bridge Act of 1972, shall be just and reasonable.

MASS TRANSIT ACCOUNT MINIMUM ALLOCATION

SEC. 129. (a) Notwithstanding any other provision of law, as soon as is practicable in each fiscal year, commencing with the fiscal year ending September 30, 1987, the Secretary shall allocate among the States from the appropriations made from the Mass Transit Account of the Highway Trust Fund for such fiscal year, amounts sufficient to insure that a State's percentage of total allocations from the Mass Transit Account for such fiscal year, shall not be less than 85 per centum of the percentage of estimated tax payments attributable to highway users in that State paid into the Mass Transit Account in the latest fiscal year for which data are available. For purposes of this section a State is any one of the 50 States and the District of Columbia.

(b) Notwithstanding any other provision of law, amounts allocated pursuant to subsection (a) of this section shall be available for obligation when allocated for the fiscal year in which allocated plus the three succeeding fiscal years, shall be subject to the appropriate provisions of title 23, United States Code, and the Urban Mass Transportation Act of 1964, as amended, as determined by the Secretary of Transportation, and shall be available for obligation for any projects authorized by the Urban Mass Transportation Act of 1964, as amended, and for highway construction projects on any public road.

DISADVANTAGED BUSINESS ENTERPRISE

SEC. 130. (a) CONTRACTING GOAL.—Except as the Secretary determined otherwise, not less than 10 per centum of the amounts authorized to be appropriated under this title or obligated under title 1 of Public Law 97-424 after the effective date of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—For the purposes of this section:

(1) "disadvantaged business enterprise" means a small business concern owned and controlled by socially and economically disadvantaged individuals;

(2) "small business concern" is defined by section 3 of the Small Business Act (15 U.S.C. 632), except that a small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of $10 million, as adjusted by the Secretary for inflation; and

(3) "socially and eocnomically disadvantaged individuals" is defined by sections 8(d)(2)(C) of the Small Business Act (15 U.S.C. 637(d)(2)(C)), except that women shall be presumed to be socially and economically disadvantaged individuals.

(c) TECHNICAL ASSISTANCE.—Amounts expended for technical assistance to benefit disadvantaged business enterprises may be used to meet up to 10 per centum of the amounts required to be expended on a contract or subcontract with a disadvantaged business enterprise under the provisions of this section.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for state governments to use in certifying whether a concern is a disadvantaged business enterprise for the purposes of this section. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(e) LEVEL OF EFFORT BY SUBCONTRACTORS.—

(1) Amounts expended with a disadvantaged business enterprise for subcontracting work shall not be used to meet any part of the goal established by this section unless such enterprise performs with its own organization subcontract work amounting to not less than 30 per centum of the subcontract price not including materials and supplies.

(2) A State government may reduce the 30 per centum requirement of paragraph (1) for a particular contract if it determines that such a reduction would be in the public

interest and that the level of effort by the disadvantaged business enterprise is consistent with industry practice by subcontractors for the type of work involved.

(3) Except for contracting arrangements approved in advance by the State government, any payments from a disadvantaged business enterprise to the prime contractor or any affiliate shall not be used to meet any part of the goal established by this section.

(f) PRIME CONTRACTS.—Except as the Secretary determines otherwise, amounts equal to not less than 5 per centum in 1988, not less than 7 per centum in 1989 and not less than 10 per centum in 1990, of the goal established by this section for a State shall be expended on contracts directly between a State government and a disadvantaged business enterprise.

(g) APPLICABILITY.—Section 105(f) of Public Law 97-424 shall not apply to amounts authorized under title 1 of such Act and obligated after the effective date of this Act.

RELEASE OF CONDITION RELATING TO CONVEYANCE OF A CERTAIN HIGHWAY

SEC. 131. Notwithstanding paragraph (1) of subsection (b) of section 146 of the Federal-Aid Highway Act of 1970 (84 Stat. 1739) and any agreement entered into under such subsection, no conveyance of any road or portion thereof shall be required to be made under such paragraph or agreement to the State of Maryland and the State of Maryland shall not be required to accept conveyance of any such road or portion. Funds authorized by such section may be obligated and expended without regard to any requirement of such paragraph or agreement that such conveyance be made.

WASTE ISOLATION PILOT PROJECT

SEC. 132. For the fiscal year ending September 30, 1986, and thereafter, there is authorized to be appropriated $58,000,000 to remain available until expended for the upgrading of certain highways in the State of New Mexico for the transportation of nuclear waste generated during defense-related activities.

OBLIGATION LIMITATION

SEC. 133. (a) Notwithstanding any other provisions of law, the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $12,350,000,000 for fiscal year 1987;

(2) $12,350,000,000 for fiscal year 1988;

(3) $12,350,000,000 for fiscal year 1989; and

(4) $12,350,000,000 for fiscal year 1990.

These limitations shall not apply to obligations of emergency relief under section 125 of title 23, United States Code, and projects under section 157 of title 23, United States Code.

(b) For each of the fiscal years 1987, 1988, 1989 and 1990, the Secretary of Transportation shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be apropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(c) During the period October 1 through December 31, 1986, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (b) for fiscal year 1987, and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection for such fiscal year.

(d) Notwithstanding subsections (b) and (c), the Secretary shall—(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State;

(2) after August 1 of each of the fiscal years 1987, 1988, 1989, and 1990 revise a distribution of the funds made available under section (b) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those State able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to these States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses, Federal lands highways, and the Strategic Highway Research Program.

HISTORIC BRIDGES

SEC. 134. (a) Congress hereby finds and declares it to be in the national interest to encourage the rehabilitation, reuse and preservation of bridges significant in American history, architecture, engineering and culture. Historic bridges are important links to our past, serve as safe and vital transportation routes in the present, and can represent significant resources for the future.

(b) The Secretary shall, in cooperation with the State, implement the programs described in Section 144 of this title in a manner that encourages the inventory, retention, rehabilitation, adaptive reuse and future study of historic bridges.

(c) The Secretary shall require each State to complete an inventory of all bridges on and off the Federal-aid system to determine their historic significance.

(d) Reasonable costs associated with actions to preserve, or reduce the impact of the project on, the historic integrity of historic bridges which continue to be used for motorized vehicular traffic shall be eligible as reimbursable project costs, including projects authorized pursuant to Section 144 of this title, provided that the load capacity and safety features of the resulting bridge are adequate to serve the intended use for the life of the facility. Funding pursuant to Section 144 of this title for actions to preserve, or reduce the impact of the project on, the historic integrity of historic bridges which are no longer used for motorized vehicular traffic shall not exceed the estimated cost of demolition.

(e) Any State which proposes to demolish a historic bridge for a replacement project with funds made available pursuant to Section 144 of this title, shall make the bridge available for donation to a State, locality, or responsible private entity provided such State, locality, or responsible entity enters into an agreement to:

(1) maintain the bridge and the features that give it its historic significance and

(2) assume all future legal and financial responsibility for the bridge, which may include an agreement to hold the State highway agency harmless in any liability action. Costs incurred by the State to preserve the historic bridge, including funds made available to the State, locality, or private entity to enable it to accept the bridge, shall be eligible project costs under chapter 1 of this title up to an amount not to exceed the cost of demolition. Any bridge preserved pursuant to this subsection shall thereafter not be eligible for any other funds authorized pursuant to this title.

(f) For purposes of this section, "historic bridge" means any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

(g) The Secretary of Transportation shall make appropriate arrangements with the Transportation Research Board of the National Research Council to carry out a study of the section 144 bridge program's effect on the preservation and rehabilitation of historic bridges. The Transportation Research Board shall also develop recommendations of specific standards which shall apply only to the rehabilitation of historic bridges, and shall provide an analysis of any other factors which would serve to enhance the rehabilitation of historic bridges.

FOREST HIGHWAYS

SEC. 135. Notwithstanding section 202(a) of title 23, United States Code, the Secretary of Transportation shall, after making the transfer provided by section 204(g) of title 23, United States Code, on October 1, of each of the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, and September 30, 1990, allocate 66 per centum of the remainder of the authorization for forest highways provided for that fiscal year by this Act in the same percentage as the amounts allocated for expenditure in each State and the Commonwealth of Puerto Rico from funds authorized for forest highways for the fiscal year ending June 30, 1958, adjusted to (1) eliminate the 0.003,243,547 per centum for the State of Iowa to the State by deed executed May 26, 1964, and (2) redistribute the above percentage formerly apportioned to the State of Iowa for other participating States on a proportional basis. The remaining funds authorized to be appropriated for forest highways for such fiscal years shall be allocated pursuant to section 202(a) of title 23, United States Code.

WILDFLOWERS

SEC. 136. Section 319 of title 23, United States Code, is amended by inserting an "(a)" after section 319 and inserting the following new subsection.

"(b) The Secretary shall require the planting of native wildflower seeds and/or seedlings as part of any landscaping project under this section. At least one-quarter per centum of the funds expended for landscaping projects shall be used for such plantings. The requirements of this subsection may be waived by the Secretary if the State certifies that such native wildflowers or seedlings cannot be grown satisfactorily or planting areas are limited or otherwise used for agricultural purposes. Nothing in this subsection shall be construed to prohibit the acceptance of native wildflower seeds or seedlings donated by civic organizations or other organizations and individuals to be used in landscaping projects.".

COMBINED ROAD PLAN DEMONSTRATION PROGRAM

SEC. 137. (a) The Secretary of Transportation, in cooperation with up to 10 States,

shall conduct a Combined Road Program Demonstration to test the feasibility of approaches for combining, streamlining and increasing the flexibility in the administration of the Federal-aid secondary, Federal-aid urban and off-system urban and secondary bridge programs. The demonstration shall place as much responsibility as feasible with State and local governments including, but not limited to, the granting of design exceptions and the conduct of final inspections.

(b) As soon as is practicable, upon completion of the demonstration project, the Secretary of Transportation shall submit a report to the Congress evaluating the effectiveness of the demonstration and making needed recommendations.

CALIFORNIA EMERGENCY RELIEF

SEC. 138. Section 125(b) of title 23, United States Code, is amended by inserting after $30,000,000" the following: "(or $100,000,000 with respect to natural disasters and catastropic failures occurring in calendar year 1986)".

INTERIM AMENDMENTS

SEC. 139. (a) Unobligated balances of Interstate construction funds apportioned or allocated to a State and available to a State on September 30, 1986, shall be available for obligation for Interstate construction projects or to convert Advance Construction Interstate projects until October 1, 1990. Federal Interstate construction funds shall not be used to reimburse the State under 23 U.S.C. 123(a) when the payment to the utility violates the law of the State or violates a legal contract between the utility and the State. Projects constructed under this subsection are eligible for the Federal share payable provided in 23 U.S.C. 120(b). Interstate discretionary funds unallocated on September 30, 1986, shall be available for allocation until October 1, 1990.

(b) Unobligated balances apportioned to a State under 23 U.S.C. 104(b)(1) and 23 U.S.C. 104(b)(5)(B) shall be available for obligation for projects under 23 U.S.C. 159.

(c) Unobligated balances apportioned to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands under the provisions of section 108 of the Highway Improvement Act of 1982 shall be considered to have been authorized to be appropriated to carry out the provisions of section 215 of title 23, United States Code.

(d) Unobligated balances apportioned to a State under section 203 of the Highway Safety Act of 1973 shall be available for projects under section 130 of title 23, United States Code.

TECHNICAL AMENDMENTS

SEC. 140. (a) Title 23, United States Code, is amended as follows:

(1) The tables of sections for chapters 1, 3, and 4 are amended by (A) striking "118. Availability of sums apportioned." "127. Vehicle weight and width limitations—Interstate System." "133. Repealed." "146. Repealed." "148. Development of a national scenic and recretional highway." "151. Pavement marking demonstration program." "155. Access highways to public recreation areas on certain lakes." "156. Highways crossing Federal projects." "213. Rama Road." and "219. Safer off-system roads.", and by (B) inserting in lieu thereof, respectively, "118. Availability." 127 Vehicle weight limitations—Interstate System." "133. Strategic highway research program." "146. Carpool and vanpool projects." "148. Repealed." "151. Repealed." "155. Repealed." "156. Repealed." "213. Repealed." and "219. Repealed.", and by (C) adding "159. Federal-aid Interstate-primary program." "160. Income from right-of-way." and "409. Reports, surveys; disclosures; admission as evidence.".

(2) Section 101(a) is amended by striking the definition of "park road" and inserting in lieu thereof "The term 'park road' means a public road that is located within, or provides access to, an area in the national park system, with title and maintenance responsibilities vested in the United States.".

(3) Section 106(c) is amended by striking "10" and inserting in lieu thereof "15" and by striking the second sentence.

(4) Section 107(b) is amended by striking "under section 108(b) of the Federal-Aid Highway Act of 1956" and inserting in lieu thereof "for Interstate construction or for the Interstate-primary program".

(5) Section 113 is amended by striking out "August 30, 1935" and inserting in lieu thereof "March 3, 1931" and by striking out "267a" and inserting in lieu thereof "276a".

(6) Section 115(a)(1) is amended by striking "interstate funds," and inserting in lieu thereof "Interstate-primary program funds," and by striking "funded under section 104(b)(5) of this title".

(7) Section 121(d) is amended by striking out "10" and inserting in lieu thereof "15", and by striking out the third sentence.

(8) The first sentence of section 122 is amended by inserting "or for substitute highway projects" before "and the retirement".

(9)(A) Section 125(b) is amended by striking out "the Interstate System, the Primary System, and on any routes functionally classified as arterials or major collectors," each place it appears and inserting in lieu thereof "the Federal-aid highway systems, including the Interstate System".

(B) Section 125(c) is amended by striking out "routes functionally classified as arterials or major collectors" and inserting in lieu thereof "on any of the Federal-aid highway systems".

(10) Section 137(f)(1) is amended by striking "104(b)(5)(B)" and inserting in lieu thereof "104(d)(1)".

(11) Section 141(d) is amended by striking "104(b)(5)" and inserting in lieu thereof "104(d)(1)" the two places "104(b)(5) appears and by inserting "-primary" after the word "Interstate".

(12)(A) Section 142(a)(1) is amended by (iii) striking "104(b)" and inserting in lieu thereof "104(d).

(B) 142(a)(2) is amended by striking "104(b)(6)" the three places it appears and inserting in lieu thereof "104(d)(3)" in each place.

(C) Section 142(b) is amended by striking "paragraph (5) of subsection (b) of section 104" and inserting in lieu thereof "section 104(d)(1)".

(D) Section 142(c) is amended by striking "104(b)(6)" the two places it appears and inserting in lieu thereof in each place "104(d)(3)".

(13) Section 144(i) is amended by striking the period at the end and inserting in lieu thereof "to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation.".

(14) Section 146 is amended by striking "104(b)(1), 104(b)(2) and 104(b)(6)" and inserting in lieu thereof "104(d) (1), (2), and (3)".

(15) Sections 148, 151, 155, 156, 213 and 219 are repealed.

(16) Section 150 is amended by striking "(6) of subsection (b)" in two places and inserting in lieu thereof in each place "(3) of subsection (d)".

(17)(A) Section 152(e) is amended by striking "104(b)(1)" and inserting in lieu thereof "104(d)(1)".

(B) Section 152(g) is amended by striking "the Congress" and inserting in lieu thereof "the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation".

(18)(A) Section 154(e) is amended—

(i) by striking out "criteria which takes" and inserting in lieu thereof "criteria which take";

(ii) by inserting after "posted" the following: "on January 1, 1983,"; and

(iii) by inserting before "in accordance with" the following: ", and on highways built after such date with speed limits posted at fifty-five miles per hour,".

(B) Section 154(f) is amended by striking "each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 percent of the amount to be apportioned for the following fiscal years, in the case of fiscal years 1982 and 1983, and up to 10 percent, in the case of subsequent fiscal years." and inserting in lieu thereof "section 104(d)(1)(C), (2), and (3) of this title in an amount of up to 10 percent of the amount to be apportioned for the following fiscal year.".

(19)(A) Section 158(a)(1) is amended by striking "each of the sections 104(b)(1), 104(b)(2), 104(b)(5), and 104(b)(6) of this title on the first day of the fiscal year succeeding the fiscal year beginning after September 30, 1985" and inserting in lieu thereof "sections 104(d) (1), (2), and (3) of this title on October 1, 1986."

(B) Section 158(a)(2) is amended by striking "each of sections 104(b)(1), 104(b)(2), 104(b)(5) and 104(b)(6) of this title on the first day of the fiscal year succeeding the second fiscal year beginning after September 30, 1985" and inserting in lieu thereof "sections 104(d) (1), (2), and (3) of this title on October 1, 1987."

(20)(A) The second sentence of section 204(b) is amended by inserting "the Secretary or" before the "Secretary of the Interior."

(B) Section 204(e) is amended by striking "88 Stat. 2205" and inserting in lieu thereof "88 Stat. 2203".

(21) Section 210(g) is amended by striking "Commerce" and inserting in lieu thereof "Transportation".

(22) Subsection (a) of section 215 of title 23, United States Code, is amended by striking from the first sentence the words "and American Samoa" and inserting in lieu thereof "American Samoa, and the Commonwealth of the Northern Mariana Islands".

(23) Section 217 is amended by striking "paragraphs (1), (2), and (6) of section 104(b)" the two places it appears and inserting in lieu thereof "sections 104(d) (1), (2), and (3)".

(24)(A) Section 307(c)(3) is amended by striking "(1), (2), and (3) of section 104(b)" and inserting in lieu thereof "(1) and (2) of 104(d)".

(B) Section 307(c)(5) is amended by striking "104(b)(1)" and inserting in lieu thereof "104(d)(1)".

(C) Section 307(e) is amended by striking "the Congress" and inserting in lieu thereof "the Senate Environment and Public Works Committee and the House Committee on Public Works and Transportation".

(25) Section 311 is amended by striking "(b)" and inserting in lieu thereof "(d)".

(26) Section 315 is amended by striking "204(d), 205(a), 207(b) and 208(c)" and inserting in lieu thereof "204(f) and 205(a)".

(27) Section 401 is amended by striking "and American Samoa." and inserting in lieu thereof "American Samoa and the Commonwealth of the Northern Mariana Islands.".

(28)(A) Section 402(c) is amended by (i) striking "For the fiscal years ending June 30, 1967, June 30, 1968, and June 30, 1969, such funds shall be apportioned 75 per centum on the basis of population and 25 per centum as the Secretary in his administrative discretion may deem appropriate and thereafter such" and inserting in lieu thereof "Such", by (ii), striking "After December 31, 1969, the" and inserting in lieu thereof "The", and by (iii) striking "and American Samoa" and inserting in lieu thereof "American Samoa and the Commonwealth of the Northern Mariana Islands".

(B) The last sentence of section 402(j) is amended by striking out "chapter" and inserting in lieu thereof "section".

(b)(1) Section 108(b) of the Federal-Aid Highway Act of 1956 is amended by (A) inserting "and" before "the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1987", by (B) inserting a period after "1987", and by (C) striking ", and the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1988, the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1989, and the additional sum of $4,000,000,000 for the fiscal year ending September 30, 1990.".

(2) Section 108(d) of the Surface Transportation Assistance Act of 1982 is amended by striking "this title," and inserting in inserting in lieu thereof "title 23, United States Code,".

(3) Section 163 of the Surface Transportation Assistance Act of 1982 is amended by striking "appropriated" and inserting in lieu thereof "apportioned".

(4) Section 163(o) of the Federal-Aid Highway Act of 1973 is amended to read as follows:

"(o) The Secretary of Transportation shall make biennial reports and a final report to the President, the Senate Committee on Environment and Public Works, and the House Committee on Public Works and Transportation with respect to activities pursuant to this section."

(5) Section 103(c) of the Federal-Aid Highway Act of 1978 is amended by striking "Congress" and inserting in lieu thereof "the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation".

EFFECTIVE DATE

SEC. 141. Except as otherwise provided therein the effective date of the Federal-Aid Highway Act of 1986 is October 1, 1986.

FEDERAL-AID HIGHWAY ACT OF 1986 AUTHORIZATIONS

[Millions]

	Fiscal year—			
	1987	1988	1989	1990
Interstate primary	8,150	8,150	8,150	8,150
I–Construction	(3,000)	(3,000)	(3,000)	(3,000)
I–4R	(2,800)	(2,800)	(2,800)	(2,800)
Primary	(2,350)	(2,350)	(2,350)	(2,350)
Primary minimum				
Secondary	600	600	600	600
Urban	750	750	750	750
Bridge	1,500	1,500	1,500	1,500

FEDERAL-AID HIGHWAY ACT OF 1986 AUTHORIZATIONS—Continued

[Millions]

	Fiscal year—			
	1987	1988	1989	1990
Minimum allocation	700	700	700	700
I–Subhighways	650	650	650	650
Emergency relief	100	100	100	100
Forest Highways	50	50	50	50
Public lands highways	50	50	50	50
Parkways and park highways	75	75	75	75
Indian Reservation roads	75	75	75	75
Rail-Highway crossings	175	175	175	175
FHWA safety grants	10	10	10	10
FHWA R&D grants	10	10	10	10
Hazard elimination	175	175	175	175
Territorial highways	12	12	12	12
WIPP roads (general funds)	58			
Total authorizations	13,140.0	13,082.0	13,082.0	13,082.0
Obligation ceiling	12,350.0	12,350.0	12,350.0	12,350.0
Spending outside ceiling	858.0	800.0	800.0	800.0

SECTION-BY-SECTION ANALYSIS: FEDERAL-AID HIGHWAY ACT OF 1986

SECTION 102: AUTHORIZATIONS

This section authorizes the appropriation of sums from the Highway Trust Fund, other than the Mass Transit Account, for the Federal-aid programs for fiscal years 1987 through 1990.

Paragraph (a)(1) provides authorizations for the Interstate-primary program of $8.15 billion for each fiscal year 1987 through 1990.

Paragraph (a)(2) provides authorizations for the Federal-aid urban system of $750 million for each fiscal year 1987 through 1990.

Paragraph (a)(3) provides authorizations for the Federal-aid secondary system of $600 million for each fiscal year 1987 through 1990.

Paragraph (a)(4) provides authorizations for the bridge replacement and rehabilitation program of $1.5 billion for each fiscal year 1987 through 1990. A total of $200 million per year shall be set aside for the bridge discretionary funds.

Paragraph (a)(5) provides annual authorizations for each of the components of the Federal lands highway program for fiscal years 1987 through 1990 as follows: forest highways $50 million, public lands highways $50 million, Indian reservation roads $75 million, and park roads and parkways $75 million.

Paragraph (a)(6) provides each of the territories (the Virgin Islands, Guam, American Samoa, and the Northern Marianas) with an annual authorization under the Territorial Highway Program for fiscal years 1987 through 1990 of $5 million, $5 million, $1 million, and $1 million, respectively.

Paragraph (a)(7) provides annual authorizations for highway related safety construction grants by FHWA for the fiscal years 1987 through 1990 of $10 million.

Paragraph (a)(8) provides annual authorizations for highway construction safety research and development grants by FHWA for the fiscal years 1987 through 1990 of $10 million.

Paragraph (a)(9) provides annual authorizations for hazard elimination for fiscal years 1987 through 1990 of $175 million.

Paragraph (a)(10) provides annual authorizations for rail-highway crossings for fiscal years 1987 through 1990 of $175 million.

SECTION 103: INTERSTATE SUBSTITUTION PROGRAM

This section amends section 103(e)(4) of title 23, the Interstate Substitute Program. The amendments to section 103(e)(4) are a simple recodification except as follows:

Section 103(e)(4)(B) makes highway construction projects on any public road eligible, as highway substitution projects, expanding the current eligibility from projects authorized under any highway assistance program under section 103 of title 23.

Section 103(e)(4)(C) deletes the deadline for project approval.

Section 103(e)(4)(E) makes substitution funds available in a State for 2 years. Funds not obligated in the 2-year period shall be reallocated or reapportioned as the case may be.

Section 103(e)(4)(G) provides authorizations for highway substitution projects for the fiscal years 1987, 1988, 1989, and 1990 of $650 million per fiscal year.

Section 103(e)(4)(H)(iv) provides for the administraive adjustment of the last Interstate Substitute Cost Estimate (ISCE) approved to make substitution apportionments for highways after fiscal year 1986, beginning on October 1, 1986.

Section 103(e)(4)(J)(iv) provides for the administrative adjustment of the last ISCE approved to make transit substitution apportionments after fiscal year 1986, beginning on October 1, 1986.

Section 103(e)(4)(P) directs the Secretary to reserve in a State's account under Section 103(e)(4) of title 23, United States Code, an amount equal to that expended on right-of-way for a withdrawn route of the Interstate where the right-of-way has not been disposed of. Such sum shall be released to the State upon partial or full repayment of funds in accordance with Section 103(e)(7) of this title or upon the determination by the Secretary that under Section 103(e)(5)(B) or (6)(B) repayment is not required.

SECTION 104: APPORTIONMENT

This section amends Section 104 of title 23 as follows:

Subsection (a) makes technical and conforming amendments.

Subsection (b) adds a new subsection to set aside funds for the Strategic Highway Research Program (SHRP) from Federal-aid Interstate-Primary, Urban, Secondary, Bridge, Highway Substitution, Railway-Highway Crossings and Hazard Elimination authorizations.

Subsection (c) repeals transfer provisions which do not conform with the creation of a new Federal-aid Interstate-Primary program.

Subsection (d) provides apportionment formulas for the Federal-aid Interstate-Primary formula, the Secondary System and the Urban System. The Secondary and Urban formulas are unchanged. The Federal-aid Interstate-Primary formula replaces existing Interstate construction, Interstate 4R, and Primary programs are consolidated by this Act into one program.

Paragraph (A) provides a formula for the new Interstate-Primary program which apportions $3.0 billion based on an administratively adjusted Interstate Cost Estimate, $2.8 billion based on the existing Interstate 4R formula and $2.35 billion based on the existing primary formula.

Subsections (e), (f) and (g) make technical and conforming amendments.

Subsection (h) permits a State to transfer up to 50 percent of its apportionment be-

tween the Urban and Secondary Systems. Urban System funds allocated to an urbanized area under Section 150 of title 23 cannot be transferred without the approval of the local officials of the area.

SECTION 105: LETTING OF CONTRACTS

This section amends section 112(b) of title 23 to permit the Secretary to waive competitive bidding on a reconstruction contract where an emergency situation exists.

SECTION 106: AVAILABILITY

This section amends section 118 of title 23 to provide four-year availability for the Interstate-Primary program, with any unobligated funds lapsing at the end of the period.

The new paragraph (b)(2) clarifies the availability of bridge replacement and rehabilitation funds. Apportioned funds remain available for obligation in a State for four years with unobligated funds reallocated as bridge discretionary funds. Bridge discretionary funds remain available for obligation in a State during the year of allocation with unused authority available to the Secretary for further reallocation.

This section also makes technical and conforming amendments to eliminate the interstate and Interstate 4R discretionary funds.

SECTION 107: INTERSTATE SYSTEM RESURFACING

This section makes technical and conforming amendments to section 119 of title 23 and amends provisions that require a reduction of a State's Interstate System adequately to require a reduction of not more than 10 percent of a State's Interstate portion of the Interstate-Primary apportionment at the discretion of the Secretary.

SECTION 108: FEDERAL SHARE PAYABLE

This section amends section 120 of title 23 making technical and conforming changes and also provides a Federal share for Interstate-Primary funds used on the Primary System (other than the Interstate) of not to exceed 75 percent of the cost of construction. These percentages may be increased under the sliding scale provision of current law.

Interstate projects will have a Federal share of not to exceed 90 percent. Routes designated as Interstate under Section 139(a) and 139(b) of title 23 prior to March 9, 1984, and under Section 139(c) of title 23 will be able to be improved at a 90-percent Federal share. These percentages may be increased in certain circumstances under current law.

This section provides that the Federal share payable for a highway emergency relief project shall be the same as for a regular Federal-aid highway project on the system in question except that the Federal share payable may be 100 percent for emergency work done in the first 30 days after the occurrence of the event that triggers emergency relief. This section also provides that States may contribute amounts in excess of the normal State share on title 23 projects.

SECTION 109: RELOCATION OF UTILITY FACILITIES

This section amends Section 123(a) of title 23 to clarify that Federal-aid highway funds may participate in utility relocation payments legally made by a State for utility relocations necessitated by the actual construction of a highway project and for safety improvements under a State's safety improvement program.

This section also eliminates the requirement in the existing Section 123(a) that limits Federal reimbursement to only those utility relocation payments made by a State with its own funds. This would establish consistency with the overall Federal-aid program by allowing the State to obtain all or portions of its pro-rata share of the costs for the utility work from other parties, such as the utilities or political subdivisions, if it so desires.

SECTION 110: EMERGENCY RELIEF

This section amends section 125 of title 23 to make the territories eligible for emergency relief with a $5 million cap on obligations during any one fiscal year.

SECTION 111: VEHICLE WEIGHT LIMITATIONS—INTERSTATE SYSTEM

This section amends section 127(a) of title 23 provide for the withholding of the Interstate construction portion of Federal-aid Interstate-Primary funds, in lieu of withholding Interstate construction funds, for violations of Section 127. The change is needed as Interstate construction funds will be unavailable to withhold. The current penalty provision in section 127(a) is revised to provide that any withheld funds do not lapse if they are subsequently released and obligated within the normal four year availability period.

SECTION 112: TOLL FACILITIES

This section incorporates the toll provisions of section 105 of the Federal-Aid Highway Act of 1978 into section 129 of title 23 and clarifies a provision of section 105 concerning the repayment of Federal funds.

This section also requires toll authorities to certify to the Governor that sufficient reserves are available to cover the construction, operation, maintenance, and repair or replacement of the toll facilities. The Governor is to transmit this information to the Secretary of Transportation who will transmit it to Congress. If funds from the Highway Trust Fund are spent on these toll facilities, an equal amount will be deducted from the State's Federal-aid highway apportionments the following year. This section does not apply to international toll facilities and those toll facilities covered by a section 105 or section 129 agreement.

SECTION 113: RAILWAY—HIGHWAY CROSSINGS

This section incorporates the provision of section 203 of the Highway Safety Act of 1973 into section 130 of title 23 and makes technical and conforming amendments.

SECTION 114: STRATEGIC HIGHWAY RESEARCH PROGRAM (SHRP)

This section adds a provision for SHRP to title 23, United States Code. The SHRP will be funded by deducting one-quarter of one percent from funds authorized for the programs specified in subsection 104(c) of title 23, United States Code. The Secretary will carry out the SHRP in cooperation with State highway departments and will set standards for the use of the funds to conduct research, development and technology transfer activities determined to be strategically important to the national highway transportation system. The Secretary may provide grants to and enter into compensation agreements with the American Association of State Highway and Transportation Officials and/or the National Academy of Sciences to conduct appropriate portions of the SHRP. Advance payments may be made under such agreements. No State matching share is required for the SHRP and the funds will remain available for four years.

SECTION 115: SECTION 139 ROUTES

This section makes amendments to sections 139 (a), (b), and (c) of title 23 to conform with the new Interstate-Primary category. This section also provides that routes designated by section 139 are eligible for any of the funds provided by the Interstate-Primary program.

SECTION 116: OFF-SYSTEM BRIDGE PROGRAM

This section permits a State to credit State-only financed off-system bridge replacement and rehabilitation projects towards the State share of the cost of other Federal-aid bridge projects. Off-system bridges that are eligible for section 144 funds, are noncontroversial, and certified by the State to have been carried out in accordance with all standards applicable under section 144 of title 23 are eligible for this program.

SECTION 117: ELIGIBILITY

This section makes payments of State or local taxes which are levied on materials to be incorporated into a Federal-aid highway project or which are based upon the value of a Federal-aid highway construction contract ineligible for Federal-aid reimbursement.

SECTION 118: MINIMUM ALLOCATION

This section amends section 157 of title 23 to add total allocations as well as apportionments to the calculation of the 85 percent minimum funds and makes the provision permanent law. This will provide to donor States a return closer to 85 percent of the amount contributed to the Highway Trust Fund by these States. Currently, in calculating the return of 85 percent minimum to the States, only apportioned programs are considered. Two major categories are added which are bridge discretionary and emergency relief. Several smaller Highway Trust Fund categories shall also be included.

Subsection (b) makes the provisions of subsection (a) effective October 1, 1986.

Subsection (c) provides authorizations for the minimum allocation for fiscal year 1987, 1988, 1989, and 1990.

SECTION 119: FEDERAL-AID INTERSTATE-PRIMARY PROGRAM

This section amends title 23 to establish the Federal-Aid Interstate-Primary Program. The Interstate-Primary program will emphasize bringing all elements of the Primary System to acceptable standards of operation and safety. The program will consist of both new construction and 4R work on the Primary System and the Interstate System (including additions thereto under section 139). The Interstate-Primary program will include traditional primary program projects, Interstate construction projects, and Interstate resurfacing, restoration, rehabilitation and reconstruction projects.

The designated Interstate System in all the States will receive priority attention in maintaining its high level of serviceability. At the same time, there is sufficient flexibility to allow States to concentrate on neglected primary routes and other primary routes which have developed into significant interstate traffic carriers.

SECTION 120: INCOME FROM RIGHTS-OF-WAY

This section provides that the net income a State receives from the use, lease, or sale of right-of-way airspace acquired as a result of a project under title 23 shall be used for projects under chapter 1 of title 23. This section is effective October 1, 1986.

SECTION 121: TERRITORIAL HIGHWAY PROGRAM

This section amends subsection (f) of section 215 to clarify that the provisions of Chapter 1 of title 23 which are applicable to

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Interstate-Primary program funds and the Primary System are applicable to the Territorial Highway Program. Subsection (f) also authorizes a Federal-aid system in each territory similar to the Primary System established by the provisions of the Surface Transportation Assistance Act (STAA) of 1982 and provides that the Secretary may determine the applicability of the provisions of Chapter 1.

SECTION 122: BICYCLE PROJECTS ELIGIBILITY

This section permits States to use Federal-aid highway funds apportioned or allocated for a highway substitute project for the purpose of designing and constructing bicycle facilities.

SECTION 123: HIGHWAY PLANNING AND RESEARCH

This section permits a State to use one and one-half percent of apportioned Interstate Highway Transfer funds for highway planning and research facilities. It would not include the 25 percent of transfer funds that are allocated.

SECTION 124: NATIONAL HIGHWAY INSTITUTE

This section modifies section 321 of title 23 to direct the Secretary to provide training at no cost to States and local governments for subject areas which are a Federal program responsibility and to allow the States to use Federal-aid funds to pay 75 percent of the cost of education and training purchased from any source including the National Highway Institute.

SECTION 125: RIGHT-OF-WAY DONATION

Subsection (a) allows 100 percent of a private contribution of right-of-way to be credited, according to its fair market value at the time of donation, to the State's matching share for the project if the donation is made to the State. A State would receive no credit for the excess of a donation which exceeded the State matching share for the project.

Subsection (b) amends title 23 to provide that land may be donated in advance of the environmental and planning process for a prospective highway project. The donation will in no way affect the required planning process for the location and environmental review of the decision with respect to alignment. If during the alignment study and environmental analysis the route for which the land was donated is determined not to be feasible, the donation of right-of-way would be cancelled and the land revested in the grantor or successors in interest.

Subsection (c) amends title 42 to permit donations of right-of-way and/or financial contributions to a State or other political subdivision. The provision also encourages the promotion of such joint projects wherein private citizens and governmental entities participate in the cost of projects as consistent with Federal policy.

Subsection (d) allows the fair market value of lands donated or dedicated to California for the relocation and construction of State Route 73 in Orange County from I-405 to I-5 to be credited to the State's matching share of the project and any excess value to be credited toward the State's share of the cost of any other Federal-aid project. Any recorded irrevocable offer of dedication or donation effective prior to the State's request for final reimbursement on the project shall be considered a part of the State right-of-way acquisition. The Federal-aid reimbursement may not exceed the actual cost to the State for the project.

SECTION 126: PROHIBITION AGAINST DISCLOSURE AND ADMISSION AS EVIDENCE OF STATE REPORTS AND SURVEYS

This section amends title 23 to provide that no report, survey, schedule, list, or data compiled for the purpose of complying with any requirement of sections 130, 144 and 152 of title 23, United States Code, or for developing any highway safety construction improvement project which may be implemented with Federal-aid highway funds shall be required to be admitted into evidence or used in any action for damages arising from matters mentioned or addressed in such documents.

SECTION 127: BUY AMERICA

This section restores the language establishing a threshold to exempt small projects under $500,000 from domestic content requirements.

SECTION 128: REGULATION OF TOLLS

This section removes Federal regulation and review of toll increases on certain toll bridges. Toll increases on these deregulated facilities must be just and reasonable.

SECTION 129: MASS TRANSIT ACCOUNT MINIMUM ALLOCATION

This section provides a Mass Transit Account minimum allocation similar to that provided in section 157 of title 23 for apportionments from the Highway Trust Fund other than the Mass Transit Account.

SECTION 130: DISADVANTAGED BUSINESS ENTERPRISE

This section authorizes a Disadvantaged Business Enterprise (DBE) program which establishes goals to encourage the participation of disadvantaged business enterprises.

Subsection (a) requires States to expend 10 percent of Federal-aid highway contracts with DBEs unless the Secretary determines otherwise.

Subsection (b) defines a disadvantaged business enterprise. The definition includes a small business owned and controlled by socially and economically disadvantaged individuals provided that annual average gross receipts do not exceed $10 million. Women are also included in the presumption of being disadvantaged.

Subsection (c) would allow costs incurred by State and local governments and prime contractors in assisting disadvantaged businesses in meeting the goal. These costs cannot be used to meet more than 10 percent of the DBE contract.

Subsection (d) would require the Secretary to establish minimum uniform criteria for State governments to use in certifying whether a concern is a disadvantaged business enterprise for the purpose of this section.

Subsection (e) requires that a DBE subcontractor perform at least 30 percent of the subcontract work with its own organization in order for the work to count towards a State's DBE goal. Certain exceptions can be made to the 30 percent requirement.

Subsection (f) provides that States must contract part of their DBE goal directly with DBE firms beginning in 1988.

SECTION 131: RELEASE OF CONDITION RELATING TO CONVEYANCE OF A CERTAIN HIGHWAY

This section relieves the State of Maryland from the obligation of accepting title to the Baltimore-Washington Parkway in return for Federal participation in improvements to the Parkway as required under section 146 of the Federal-aid Highway Act of 1970.

SECTION 132: WASTE ISOLATION PILOT PROJECT

This section authorizes $58 million out of general revenues to up-grade certain roads in the State of New Mexico. This authorization fulfills an agreement among the State of New Mexico, the Department of Energy and the Department of Transportation for the up-grading of roads in the vicinity of the Waste Isolation Pilot Project (WIPP). This facility is being built as a long-term repository for storage of low-level nuclear wastes from around the country.

SECTION 133: OBLIGATION LIMITATION

This section establishes an obligation limitation of $12.35 billion for fiscal year 1987, $12.35 billion for fiscal year 1988, $12.35 billion for fiscal year 1989 and $12.35 billion for fiscal year 1990.

SECTION 134: HISTORIC BRIDGES

This section clarifies that any reasonable costs associated with mitigating harm to a historic bridge would be eligible for Federal-aid bridge funds if the bridge remains part of the highway system. States are permitted to use bridge funds equal to the cost of demolition for preserving a historic bridge eligible for demolition if they, or any other responsible entity, sign an agreement taking future legal and financial responsibility for the bridge. Further, States are required to identify historic bridges on the National Bridge Inventory. This section also requires the Transportation Research Board to review the rehabilitation of historic bridges and develop recommendations for specific standards for the rehabilitation of historic bridges.

SECTION 135: FOREST HIGHWAYS

This section provides that two-thirds of the Forest Highway funds are allocated according to the formula used prior to the STAA of 1982 and one-third are allocated according to section 202(a) of title 23.

SECTION 136: WILDFLOWERS

This section requires that one-quarter percent of Federal-aid highway funds expended for landscaping on a project be for the planting of wildflowers or such seedlings. The requirement can be waived if a State certifies that the planting of such wildflowers is not feasible because of conditions with respect to the particular project on which landscaping funds are expended. Public donations of wildflowers or seedlings are allowed.

SECTION 137: COMBINED ROAD PLAN DEMONSTRATION PROGRAM

This section requires that the Secretary report to Congress on a combined road program demonstration which will permit a limited number of States to participate in a block grant program for Federal-aid secondary, Federal-aid urban, and off-system, urban and secondary bridge projects.

SECTION 138: CALIFORNIA EMERGENCY RELIEF

This section removes the Emergency Relief program cap of $30 million per year per disaster for calendar year 1986 so that California's 1986 flood disaster is eligible for Federal-aid funds for the total amount of the disaster.

SECTION 139: INTERIM AMENDMENTS

Subsection (a) provides that unobligated Interstate construction balances (apportioned or allocated) shall remain available until October 1, 1990, for Interstate construction projects. Unallocated Interstate discretionary funds are to be distributed using current procedures.

Subsection (b) makes the unobligated balances previously apportioned to a State under subsection 104(b)(1) (Primary System program) and 104(b)(5)(B) (Interstate-4R program) of title 23, United States Code, as they existed prior to enactment of this legislation available for obligation for projects under the Federal-aid Interstate-Primary program.

Subsection (c) makes the unobligated balances of funds apportioned to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands under the provisions of section 108 of the Highway Improvement Act of 1982 available for obligation under the provisions of section 215 of title 23, United States Code.

Subsection (d) makes the unobligated balances of funds apportioned to a State under section 203 of the Highway Safety Act of 1972 available for projects under section 130 of title 23, United States Code.

SECTION 140: TECHNICAL AMENDMENTS

This section makes needed technical and conforming amendments.

SECTION 141: EFFECTIVE DATE

This section specifies that unless otherwise provided, the effective date of the Federal-Aid Highway Act of 1986 is October 1, 1986.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

REAUTHORIZATION OF THE FEDERAL-AID HIGHWAY PROGRAM

Mr. STAFFORD. Mr. President, I am pleased to join with the distinguished chairman of the Subcommittee on Transportation, Senator SYMMS, the distinguished ranking member of the committee, Senator BENTSEN, the distinguished ranking member of the Subcommittee on Transportation, Senator BURDICK, and a distinguished member of the Transportation Subcommittee, Senator ABDNOR, in introducing legislation today which will authorize the Federal-Aid Highway Program for fiscal years 1987 through 1990.

The Federal-Aid Highway Act of 1986 will provide $52.386 billion in new authorizations for the highway program over the next 4 years. The States will be able to spend approximately $13.2 billion per year. This level of authorization continues to be made possible in part by the increased gas tax revenues authorized by the Surface Transportation Assistance Act [STAA] of 1982. During the past 4 years the highways and bridges around the country have benefited from increased funding. The Department of Transportation's latest status report on the condition of the Nation's highways shows that the steady decline in the pavement quality of the highway system prior to 1982 has been stopped. The report attributes this turnaround to the increased funding levels of the STAA of 1982 and the gas tax increase. I believe the level of funding provided in the bill being introduced today will continue to improve the quality of our highways and bridges.

The most important goal to be accomplished in highway reauthorization legislation this year is the completion of the Interstate Construction Program by 1990. This program, begun in the 1950's, has changed transportation in this country more than any other single endeavor. When the Interstate System was first envisioned, they told us it would take 13 years and cost $27 billion. After 30 years and $112 billion, the Interstate System is now essentially complete and it is time to direct our attention and limited resources to other parts of the highway program which have been neglected.

The Federal-Aid Highway Act of 1986 provides a mechanism to achieve completion of the Interstate System by 1990. It combines the existing Interstate construction, Interstate 4R and Primary categories into a new Interstate-Primary category authorized at $8.150 billion per year. State and local officials will be able to determine what remaining Interstate construction work should be done. If this work has a high priority, States could decide to use a major portion of their Interstate-Primary funds on Interstate completion between now and 1990. If States believe the remaining Interstate construction work will not benefit the System, they could decide to spend all of their Interstate-Primary funds on Interstate 4R and Primary projects.

In view of the disruption the States have experienced in Interstate completion because Congress did not approve the Interstate Cost Estimate [ICE] and Interstate Substitute Cost Estimate [ISCE] on time, this bill provides that no future ICE or ISCE approvals will be necessary. The Secretary of Transportation is directed to make further administrative adjustments to the ICE which was used to apportion the Interstate construction funds on October 1, 1985. These apportionment factors will then be used to apportion $3 billion each October 1 through fiscal year 1990. The States will know exactly what their apportionment will be each year, and they can be certain that it will be available to them on October 1. This assurance of funds should be very helpful to States, particularly to those who wish to advance their Interstate construction projects with their own funds or with bond financing.

As long as funds are made available for Interstate construction, I will continue to support the one-half percent minimum for those States who have completed or nearly completed their Interstate construction program. There are now 25 States in that category and I do not believe it is fair to penalize them for finishing their Interstate System in a timely way. In many cases this was done at the expense of the rest of their highway program.

Until we have some assurance that the Interstate System will be essentially complete by 1990, I do not believe we can consider any major restructuring of the highway program. Major program changes or apportionment formula changes should not be made until the Interstate System is completed and we have determined what the future Federal responsibility will be for the highway program.

Even after the nickel gas tax increase in the STAA of 1982, highway needs continue to exceed available resources from all levels of government. And they probably always will. I do not believe that there will be an increase in the Federal highway user fees in the foreseeable future. During the hearing process, the committee received testimony on alternative methods of financing the highway program. One alternative the committee should continue to seriously consider is lifting certain Federal restrictions on combining toll revenues with Federal-aid funds to build new, non-Interstate roads. This would provide the States with a further option in addressing severe congestion problems primarily in urban areas.

Mr. President, the spending level of $13.2 billion per year provided by the Federal-Aid Highway Act of 1986 reflects the amount recommended by the Environment and Public Works Committee in its February 15 report to the Budget Committee. I am aware that the budget process has not been completed and that Congress may agree to reconciliation instructions which are different than the funding levels in this bill. If we are to meet the October 1 reauthorization deadline, however, I believe it is important to go forward with legislation at this time even though Congress has not completed action on the fiscal year 1987 budget resolution. The committee will pay close attention to the budget process during consideration of highway reauthorization legislation and make appropriate adjustments.

Mr. President, I want to emphasize again how important it is to complete action on the reauthorization of the highway program by October 1. This program provides highway money for each State, the District of Columbia, Puerto Rico and the territories. Projects undertaken by this program are the result of long years of planning. Highway construction and reconstruction is a seasonal activity in most States. Uncertainty and delays in funding can cost a State an entire construction season. I hope all my colleagues will join with me and the other Members of the Environment and Public Works Committee in assuring the reauthorization of the highway program by October 1.

Mr. BURDICK. Mr. President, I am pleased to join my colleagues on the

Senate Environment and Public Works Transportation Subcommittee in cosponsoring legislation extending the highway program another 4 years.

During the past year, the subcommittee held extensive hearings and staff discussions with interested parties on the direction of the program. Writing the reauthorization bill was difficult because of past budget constraints placed on the highway trust fund by Congress. Just 4 years ago, Congress agreed to a 5-cent gas tax increase and the highest program levels ever set for a national highway program.

However, it has created a program imbalance by placing the obligational limitation far below authorizations. This imbalance may trigger the Byrd amendment criterion of unfunded authorizations not exceeding 2 years' worth of revenues, even though the highway trust fund has a $9 to $10 billion cash balance.

According to CBO, there are two basic ways to redress this imbalance. First, future authorizations could be set below future obligation ceilings until the current backlog is reduced. A difference of about $800 million a year for the next 4 years would be necessary just to offset the gap that has developed over the past 4 years. Second, selected authorizations from previous years could be rescinded. This second option may not be popular with States because many might be forced to adjust construction plans made on the promise that such Federal funds would be made available.

The bill introduced today selects the first option of reducing authorization levels. On May 1, the Senate agreed to a resolution that a reasonable portion of the trust fund balance should be expended over fiscal years 1987, 1988, and 1989. By the end of fiscal year 1989, obligations from the trust fund would be required to equal revenues ($12.8 billion plus interest) deposited in the highway trust fund. The obligation ceiling set by the reauthorization bill would have to be increased by $650 million to $1 billion each year in order to implement the Senate resolution.

This bill creates a system of highways of national significance by combining the existing categories of interstate construction, 4R, and primary. The interstate-primary category retains existing formulas and matching requirements, but allows State highway agencies flexibility in using these funds.

Because the current Federal aid highway system serves 80 percent of the total national travels and contributes to our economic well-being and national defense, it is clearly within our interest to encourage States to protect and preserve these roads. Hopefully, an added benefit of this program structure would be higher levels of service and safety in handling heavy, large trucks. Federal highway and State engineers should concentrate their efforts on improving safety and local access, upgrading existing highway design and geometry, and repairing deficient pavement and bridges.

Uniform road and traffic conditions and eventual elimination of State size and weight grandfathering clauses would benefit commerce. Additional benefits might be the reduction of accident rates and State/local maintenance costs if more truck traffic could be shifted from lower level roadways to major roadways built to accommodate larger weights.

According to the Federal Highway Administration, the following amounts per annum would be required to keep our infrastructure needs current over the next 15 years:

Interstate—$3.4 billion.

Primary roads—$4 billion to $5 billion.

Urban-secondary roads—between $6 billion and $7 billion.

Bridges—$48.3 billion for repair and replacement of deficient structures.

The average State gas tax is 12.2 cents. At that rate, many State and local transportation programs are hard-pressed to meet immediate road maintenance needs, let alone catch up on the growing backlog of repairs. While the reauthorization bill cannot meet all of those needs, it should provide some relief. The measure of its success will depend upon Congress to provide State highway agencies with enough contracting authority to actually spend down the backlog of authorizations and provide new money without budgetary restrictions.

I would encourage my colleagues to support the major components of this bill. In addition, I am relying on your support to set the highest level feasible for an obligation ceiling over the next 4 years.

Mr. STAFFORD. Mr. President, whatever time remains I ask unanimous consent that I be allowed to yield to the distinguished Senator from South Carolina (Mr. THURMOND).

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

Mr. THURMOND. I thank the able Senator.

The PRESIDING OFFICER. The Senator from South Carolina.

S. 2406—INTERSTATE TRANSPORTATION OF FIREARMS

Mr. THURMOND. Mr. President, last year on July 9, 1985, the Senate passed S. 49, the McClure-Volkmer bill, by a vote of 79 yeas to 15 nays.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. THURMOND. I yield.

Mr. BYRD. Is the distinguished President pro tempore delivering an opening statement on the gun bill; the House message, that is?

Mr. THURMOND. This is not an opening statement. I am just going to introduce something.

Mr. BYRD. I beg the Senator's pardon. I have no objection.

Mr. THURMOND. On April 10, 1986, the House adopted the Volkmer substitute patterned after H.R. 945 with amendments and substituted the House language for the text of S. 49 and passed it overwhelmingly and returned it to the Senate.

The administration continues to support S. 49 in the form as passed by the House.

Mr. President, I send to the desk some amendments; I send to the desk a bill which I am introducing.

I shall vote for S. 49 as passed by the House and as passed by the Senate. When that bill comes here I am going to vote for it without amendments.

But a great many people feel that certain amendments are desirable. There are some I think that would be helpful. Therefore, I am introducing some of those amendments.

For instance, one is to clarify what is required of a firearms owner who transports a firearm between States by making it clear that during such transport the gun must be unloaded and in a secured compartment.

Another, clarify what is meant by the terms "engaged in the business" of dealing in firearms; in order to cover the situation where a person provides, rather than sells for a profit, guns to those who advocate violence.

Another mandates that a gun dealer keep records of all sales from the person who collects them.

Mr. President, these amendments are worthy of consideration and I am introducing a bill to contain them and ask that this bill be referred to the Judiciary Committee for hearings after the passage of S. 49 in the Senate.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD.

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

S. 2406

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

Section 926A, Title 18, United States Code, is amended by striking the text in its entirety and inserting in lieu thereof the following:

"INTERSTATE TRANSPORTATION OF FIREARMS

"Any person not prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport as unloaded, not readily accessible firearm, enclosed in one or more locked compartments in interstate commerce notwithstanding any provision of any legislation enacted or any rule or regulation prescribed by any state or political subdivision thereof.

Section 921(a)(21)(c) of Title 18, United States Code, is amended by striking the ex-

isting language and inserting in lieu thereof the following: applied to a dealer in firearms, as defined in section 921(a)(11)(a), a person who devotes time, attention, and labor to dealing in firearms as a regular cause of trade or business with the objective of livelihood or profit, including disposition of firearms to an individual or individuals who advocate violence for ideological or political reasons whether for profit or not, through the repetitive purchase and resale or distribution of firearms. The term shall not include a person who makes occasional sales, exchanges, or purchase of firearms for the enhancement of a personal collection or hobby, or who sells all or part of his personal collection of firearms. Section 923(c) of Title 18, United States Code, is amended as follows:

By striking out all language after "Nothing in this chapter shall be construed" through "business inventory" at the end of this subsection.

ROUTINE MORNING BUSINESS

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

The Senator from Utah.

INTERSTATE TRANSPORTATION OF FIREARMS

Mr. HATCH. Mr. President, I am going to compliment the distinguished Senator from South Carolina, the chairman of the Judiciary Committee, for putting in this bill today. There is much merit in what he is saying. I think he is doing the Senate a singular service in putting this bill into the RECORD and sponsoring it.

On these particular amendments there needs to be hearings, and I intend to fully cooperate with the distinguished chairman of the Judiciary Committee in holding those hearings and doing what has to be done.

There are a number of these amendments that I feel I can support right off the bat, and perhaps all of them, and I will certainly cooperate and work with the distinguished chairman of the Judiciary Committee, Senator THURMOND, in seeing that this bill is given expedited treatment in the Judiciary Committee.

I personally compliment him for his leadership in this area and especially in these particular amendments and this particular bill this day.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Will the distinguished Senator from South Carolina be good enough to bear with me for a minute?

Mr. THURMOND. I will be very pleased.

Mr. METZENBAUM. In regard to the amendments he just offered, I have not seen the amendments, but I only know what I have heard about them. But I understand that there is an effort made to correct some of the problems that many of us have found with respect to the McClure-Volkmer bill. Is the Senator from Ohio correct in that? I just walked on the floor.

Mr. THURMOND. Yes. I am introducing certain amendments here. I just stated what they were. I will be glad to quickly run over those with the Senator.

This bill clarifies what is required of a firearms owner who transports a firearm between States, by making it clear that during such transport the gun must be unloaded and in a secured compartment.

Another provision is to clarify what is meant by the term "engaged in the business" of dealing in firearms, in order to cover the situation where a person provides, rather than sells for a profit, guns to those who advocate violence.

Another provision is to mandate that a gun dealer keep records of all sales from his personal collection.

I am introducing a bill to cover those points. I intend to vote for S. 49 as it is. This bill has been worked on for a year or two and I am convinced that the strong majority of this body favor the bill as it is. I do not think that S. 49 could be defeated. I think it is going to be passed and I intend to vote for it like it is. But I am offering my bill, asking that it go to the Judiciary Committee. I hope we can have hearings on this bill soon so we can get something back to the Senate for consideration.

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Mr. METZENBAUM. Am I correct that these are the amendments that are described in the letter dated April 21 to all Senators and signed by the Law Enforcement Steering Committee? That letter says that the "Law Enforcement Steering Committee Against S. 49, made up of the Nation's 12 principal law enforcement organizations, urges you to support amendments to the pending legislation," and goes on to describe it.

Mr. THURMOND. Senator, there are amendments similar to those. I do not know whether it is the exact wording or not, but it is similar to that.

Mr. METZENBAUM. First of all, let me commend the Senator from South Carolina for offering that package of amendments. To the best of my knowledge, the Senator from Ohio approves of them, although I obviously have not had a chance to read that.

I do not think there is any secret about the fact that if and when we get on to the McClure-Volkmer bill, there will be considerable debate in connection with that measure, as well as a number of amendments. By "considerable debate," I do not mean to suggest a filibuster. I do not mean to suggest that at all. But it will tie up the Senate for a number of days.

There have been many discussions going on with respect to trying to put together a package, which I believe is pretty much along the line of the proposal of the Senator from South Carolina.

I would just ask the Senator from South Carolina if it would be possible that he could work out getting these or very similar amendments attached to the present bill, which possibly then might provide a means by which we could move the gun bill forward without further debate on the subject. Would he look favorably on that procedure and, therefore, we would not have to go through the Judiciary Committee but we would achieve the ultimate objective?

Mr. THURMOND. Mr. President, I have thought about that, but I am convinced we should not offer these as amendments. It is my judgment that the only way we are going to get these amendments is to offer a separate bill.

As I have indicated, the majority of the Senate is strongly in favor of S. 49. The House has passed it. I do not think you can stop this bill. I really think the only hope of getting these provisions law enforcement wants is in a separate bill, and that is what I have introduced. I would be pleased for the Senator from Ohio to join me on this bill and help me get it through the Judiciary Committee and bring it back to the Senate as soon as possible.

Mr. METZENBAUM. I want to say to the Senator from South Carolina that I am not as despondent or discouraged about the possibility of getting the amendments on the bill before it leaves the Senate. I think that it does merit some further discussion. I think, as a matter of fact, those who were the strongest advocates, the National Rifle Association, had indicated that these amendments were acceptable to them, as I understand it. And I am not speaking for them, I am only speaking from hearsay. But they had one other amendment that they wanted which I think would provide some difficulty and would not be acceptable.

However, let me say that we are prepared to move on to the bill. We are prepared to do that.

But, it is my understanding that the Senator from California, with my support, I might say, will be shortly moving to move on to the resolution having to do with the Saudi Arabian arms sale. Maybe during that period, perhaps, in some way we can work together to negotiate a result that I am sure the Senator from South Carolina would like to see attained.

Mr. THURMOND. Mr. President, I want to say, in response, that I think the National Rifle Association, as I understand it, would not oppose these

amendments if contained in a separate bill, but they would strongly oppose them being attached to this bill. S. 49 has been under consideration so long, it has been fought over so long, and the Senate passed it 79 to 15 and the House overwhelmingly passed it. I am convinced you cannot stop this bill and the best hope is to follow this procedure. I think it is a waste of time to do anything else. So I now intend to vote for S. 49 as it has passed the House and to work hard on a separate bill to try to accomplish something which I think can be a reality. I think to do it now is futile, a waste of time, and will not become a reality.

Mr. CRANSTON. Will the Senator from Ohio yield?

Mr. METZENBAUM. I do, indeed.

Mr. CRANSTON. I would simply like to ask the Senator from Ohio how long he feels debate on the gun bill will take, in view of our concerns about getting the Saudi measure up sometime very soon.

Mr. METZENBAUM. If I had to guess—and I am not certain—but I would guess 3 or 4 days, maybe into the first of next week. But I would say 3 or 4 days anyhow. I know that there are a number of Senators who have indicated that they want to offer amendments. If they do, I am sure that each of those will involve a considerable amount of debate.

Mr. HATCH. Will the Senator yield on that point?

Mr. CRANSTON. In view of that—if I may just continue.

Mr. HATCH. Would the Senator yield on that point?

We only know of three amendments to the bill. As a matter of fact, we feel that the McClure-Volkmer bill will, at most, take only 2 hours today. We will accommodate Senators who want to bring up amendments, to offer those and have votes on each of those. So there is no reason for this bill to go on for 3 or 4 days, unless there is a filibuster. If there is, it seems to me the leader would have to consider filing a cloture motion today, which means there will be a vote on this come Thursday. Should cloture be invoked, since it has passed both Houses, it would be fruitless to delay the Senate just because certain Senators do not like the McClure-Volkmer bill.

But, literally, there is no reason for this bill to go more than 2 hours today. Therefore, there is no reason for any delay in going to the Saudi arms package. Also, I think there are some of us who are still on the fence with regard to that package. I have to admit, if we are going to displace that, which the majority leader has said we are to do it today, I think we will be in an awful traffic jam here and maybe in danger of losing some votes that you might otherwise have, which I think are very important on that issue. Literally, I do not know what the distinguished Senator from Ohio was talking about when he says it would take 3 or 4 days.

Mr. METZENBAUM. I am prepared to respond.

Mr. HATCH. Because we have had a number of days on this bill in the past. The House has had days on this bill. Both Houses have passed this bill by overwhelming majorities.

We only know of three amendments. If there are others, we will accommodate those, there is no question about it, and we will have appropriate debate on them. But there is no reason why we cannot get to both of these issues if we are willing to work together and not delay the Senate in its work.

But if there is going to be delay, and deliberate delay at that, then do not blame those of us who are supporting the rights of hunters and fishermen all over this country for wanting to get this bill diposed of, because we do.

Mr. METZENBAUM. I want to respond to the Senator from Utah and the Senator from California. There will be no deliberate delay, as far as this Senator knows. But, having said that, it is impossible—impossible—to hope for this bill to be disposed of today or within a couple of hours.

Mr. HATCH. Mr. President——

Mr. METZENBAUM. The Senator from Ohio has the floor, if you please. The Senator from Ohio has four separate amendments. The Senator from Illinois, Senator SIMON, has an amendment. The Senator from Illinois, Senator DIXON, has an amendment. I am not certain what amendments, if any, the Senator from Massachusetts, Senator KENNEDY, has. But, suffice it to say that we recognize that the bill passed by a large margin. We also recognize that there were some mistakes made, and that is one of the reasons why Senator THURMOND has offered his package of amendments to try to correct that situation. We want to correct the matter. We know that the pending bill is not nearly as good as an amendment to the bill and it becoming a part of the law.

So I can say categorically to the Senator from California, who posed the question, that you may anticipate 2, 3, 4, or 5 days of debate. I am in no position to determine that. But I would say that, regardless of whether there were cloture motions filed, which I believe would be highly inadvisable, it is my understanding that all of the amendments about which we are speaking would be in order post-cloture and that would not solve the problem.

As I understand the concern of the Senator from California, it is that the Senate must conclude its action with respect to the time provided in the law no later than tomorrow, and it was his inclination to be able to move this matter having to do with the Saudi arms sale through the Senate today in order that the House might act on it tomorrow.

□ 1100

The PRESIDING OFFICER. The 5 minutes in morning business of the Senator from Ohio has expired.

Mr. CRANSTON. I ask unanimous consent that 2 more minutes be extended.

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

The Senator from Ohio is recognized for 2 additional minutes.

Mr. METZENBAUM. I do not think anybody is trying to play any games. We are trying to move the procedures of the Senate forward properly. The motion of the Senator from California, which I previously stated I join him in to get on with the resolution of disapproval having to do with the Saudi Arabian arms sale, is a privileged matter. I hope Members of this body will not be placed in the position of having to vote in some way that might be interpreted as being with or against the gun lobby, or with or against those concerned about the Saudi Arabian arms sale.

There is not anything under the Sun that requires the arms bill to be concluded within 24 or 48 or 72 hours, or whatever. There is something with respect to the Saudi Arabian arms sale that requires the matter to be disposed of by tomorrow night if it is to have any impact whatsoever.

Mr. HATCH. Will the Senator yield at that point?

Mr. METZENBAUM. I ask unanimous consent that I have an additional 5 minutes so that I may respond to the Senator from Utah.

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

Mr. HATCH. Let us just be honest about it. The Firearm Owners Protection Act passed the Senate, has gone to the House, has had extensive debate there, and both bodies have passed it overwhelmingly. There is no question that there are a small number of Senators in this body who are against the bill. The distinguished Senator from Ohio is one of the most notable of that small number.

There is also no question that the distinguished Senator from Ohio and his colleagues in the House who are against the bill are also members of a small minority who would like to amend the Firearm Owners Protection Act here, again delay it, throw it into conference, and hopefully in the interest of defeating it.

If I may make just a couple more points, the distinguished Senator from South Carolina, Senator THURMOND, chairman of the Judiciary Committee, filed a bill today to correct what he considers to be matters within the

Firearm Owners Protection Act that might make it a better bill. He thinks in the end, after hearings, after a thorough examination, which is what his committee should do, and we feel that the McClure-Volkmer bill has been thoroughly examined. But nevertheless, he has done that in the interest of those who have some concerns.

Everybody here knows the Senator mentioned six amendments plus whatever the distinguished Senator from Massachusetts wants to bring up, and I presume there will not be many beyond the six. We can dispose of all of those amendments today within a reasonable time, and I think everybody understands fully the nature of each amendment, and fully the nature of the bill, which I might add is a privileged matter itself before this Senate.

The majority leader has called up this bill. I think to now try to displace this privileged bill with any other bill when we can do that in 1 day really would be an attack on the leadership of the majority leader of the Senate.

I believe we can do both of these bills, and we can do them expeditiously this week. There is no reason for all of this delay. There should be no delay in trying to bring up the Saudi arrangement because frankly that is not going to happen.

Mr. METZENBAUM. Does the Senator from Utah seriously question the fact that the law provides that the action of the Senator from California and myself has to be completed by Wednesday in order to have efficacy?

Mr. HATCH. No. But I also understand literally we can get that done if we just dispose of this bill in 2 or 3 hours.

Mr. METZENBAUM. There is a very big "if."

Mr. HATCH. It is not. It is within the power of the Senator from Ohio to do that. But he would prefer to delay it for 4 or 5 days.

Mr. METZENBAUM. The Senator from Ohio is not attempting to delay.

Mr. HATCH. What else could it be?

Mr. METZENBAUM. When the Senator from Ohio is trying to delay a matter, I never hesitate to indicate publicly what my intentions are. I have said to the Senator from Utah unequivocally I do not intend to delay this bill for delay's purpose only.

Mr. HATCH. Beyond 4 or 5 days.

Mr. METZENBAUM. Just a moment. Now I have the floor.

Mr. HATCH. That is fine.

Mr. METZENBAUM. Now I have the floor. The Senator from Utah knows also that I have been engaged in negotiations indicating a willingness to try to work out these amendments about which we are speaking, very similar to the amendment the Senator from South Carolina has proposed, and have indicated a willingness that they be handled as technical amendments so that they would not have to go to conference. All of those agreements or representations have been already made.

So the Senator from Utah cannot in any way suggest there is any effort on the part of us who have concerns about the gun control bill, or S. 49, to have any ideas at all about trying to defeat it or anything of the kind. What we are talking about is whether or not we are going to be able to deal with the action on the Saudi Arabian arms sale within the time limits prescribed by law.

I yield to the Senator from California.

Mr. CRANSTON. I would like to say this. I have no interest in delaying the gun bill. I have an interest in getting timely action under expedited procedures on the Saudi arms package. It is quite clear from the discussion that has been going on between the Senator from Utah and the Senator from Ohio that we are not going to dispose of the gun bill in 1 day although there is not going to be a filibuster, according to the Senator from Ohio.

The matter that I wish to bring up, the Saudi arms sale resolution of disapproval, has a time necessary for coming up swiftly whereas there is no such time necessary on the gun control bill, as I understand it. This is not an attack on the leadership. It is simply seeking to bring up the bill in a timely fashion under the laws to provide for that action. It is not a partisan matter. I am joined in this effort, and will be joined in the effort when it is made, if we have to come to that, by Senator PACKWOOD, by Senator D'AMATO, and I know many other Republicans will be supporting the motion.

The PRESIDING OFFICER (Mr. RUDMAN). The time for the transaction of morning business has expired.

The clerk will report the pending business.

Mr. METZENBAUM addressed the Chair.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The clerk will suspend.

For what purpose does the Senator from Ohio seek recognition?

Mr. METZENBAUM. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

□ 1110

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

Mr. HATCH. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk resumed the call of the roll.

□ 1120

Mr. HATCH. 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 Utah is recognized.

FIREARMS OWNERS' PROTECTION ACT

Mr. HATCH. Mr. President, there is a great desire on the part of all people on the floor at this time to try to resolve these difficulties. But let us be honest about it: The firearms owners' protection bill has had days on the floor of the U.S. Senate, days on the floor of the House. It has been thoroughly scrutinized. It has been 8 years in coming, at least as far as I know. These issues have been fought ever since the 1968 gun control bill. Sports people all over this country have been abused by interpretations of that gun control bill of 1968.

This is not some inconsequential bill, Mr. President; this is an important bill and it has preference on the calendar.

The majority leader has called it up. This is the reason for that preference. That is because an overwhelming number of Members of Congress in both the Senate and the House have approved this bill. It has come back here after House amendments which are acceptable to the managers of the bill in the Senate. We are trying to work out this other matter as well. There will be a good-faith effort to do so.

I shall be absolutely honest about it, Mr. President: We are going to fight any attempt to amend the Firearms Owners' Protection Act on the floor at this time. The reason we are going to fight is that we know that those who want to amend it at this time, though there is sincerity behind some of their amendments, want to do so to delay it further in the hope that they can kill it either in conference or through further amendments or through any other type of delay, filibuster or otherwise. We know this is a critical time. There has been a massive effort by everybody concerned on both sides of this issue and we are going to resolve it.

I also recognize that the other issue is extremely important as well and there is no reason why we cannot get to that if we spend a reasonable time on this firearms bill at this time. We are going to make an effort to see if we can resolve these matters. The distinguished Senator from South Carolina, the chairman of the Judiciary Committee, Mr. THURMOND, has filed another bill today that may resolve some of the problems in the minds of some of our colleagues with regard to gun control, gun ownership, interstate

transportation, and so forth. We are willing to work on that language, willing to see what can be done, but not before the Firearms Owners' Protection Act which is before the Senate at this time. There will be a good-faith effort made and let us understand it: There is no reason in this world for this particular bill at this time to take 4 or 5 days or even 2 days. This is a bill that can be disposed of in a matter of 2 hours, at the most 6 hours, if we take all amendments that the Senator from Ohio has mentioned.

It is tough to get these bills to the floor, tough to resolve these matters. This is the time to resolve this very, very important matter.

Mr. President, on July 9 of last year, the Senate approved, by the decisive margin of 79-15 the Federal Firearms Owners' Protection Act. This bill simultaneously strengthens Federal law against violent firearms crimes and strengthens protections for the rights of law-abiding gun owners. The chairman of the House Judiciary Committee greeted the bill with the prediction that it would be dead on arrival when it arrived in the House. These were the identical words used last Congress by another House leader to predict that the Comprehensive Crime Control Act of 1984 that we worked so hard on in the Senate would be buried. The 1984 Crime Act was resurrected to become Public Law 98-473 and is the most sweeping crime control bill of this century. That was because some of us just would not be bullied or pushed around with regard to passing that bill. It is already doing much to deter criminal activities throughout our country. It is my hope that my colleagues will acknowledge the House's approval of S. 49 by helping to make it a public law as well. This approval of S. 49 would send a signal that America has become more serious about fighting violent crime.

Reminiscent of the 1984 crime control bill, opponents have undertaken to manufacture objections to this gun crime control bill. S. 49 has been accused of making it easier for escaping criminals, felons, and even terrorists to get a gun. In fact, S. 49 strengthens the Federal law banning dangerous persons from getting firearms. This bill makes it a felony for any person, not just a licensed firearm dealer, to sell knowingly a firearm to a fugitive, felon, drug abuser, or mental incompetent.

Critics of this anticrime legislation have also accused S. 49 of encouraging circumvention of State restrictions on firearms by permitting interstate firearm sales. Once again, the accusation does not match the provisions of the bill. S. 49 expressly states that a licensed dealer may sell no firearm whatsoever to an out-of-State buyer unless the sale complies with the law of both the buyer's and seller's State. Moreover any sale must take place face-to-face at the dealers business premises and records must be kept to ensure that law enforcement officers can trace weapons. State restrictions on gun sales are expressly preserved by the Senate bill; a violation of this rule is a Federal felony. Moreover, an amendment adopted in the House has retained current law on interstate sales of handguns.

Finally, critics stoop to suggesting the bill will allow mail-order sales of firearms. At least three provisions of current law prohibit mail-order sales. None of these provisions is altered by the bill, which in fact reaffirms the bans on purchase of firearms through the mail.

What the bill establishes are strict additional penalties for felonious use of a firearm. S. 49 even rules out probation, suspended sentences, paroles, or furloughs for offenders who employ a firearm in the commission of a violent crime. The Senate bill also consolidates and clarifies conflicting provisions of Federal law prohibiting felons, fugitives, drug abusers, mental incompetents, and other potentially dangerous individuals from obtaining firearms. S. 49 bans the importation of handgun frames, receivers, and barrels that are not suitable for sporting purposes, which amounts to a limit on importation of handgun barrels of 3 inches or less. The Senate bill explicitly codifies regulations permitting tracing of firearms used in crimes.

A primary benefit of the Senate antigun crime bill focuses Federal law enforcement efforts on violent crime, rather than on minor technical violations or infractions of the regulatory aspects of Federal law. Unfortunately, Federal enforcement has become mired down in enforcing inadvertent recordkeeping mistakes, rather than significant violent crime. An occasional firearm sale from a dealer's private collection has given rise to major felony prosecutions. Warrantless searches have unnecessarily harassed law-abiding firearms owners and honest dealers. The absence of legal definitions for terms like engaging in the business has subjected casual hobbyists or collectors to Federal prosecutions for dealing in firearms without a license. The lack of any criminal state of mind requirements or scienter as we refer to it in the law, has resulted in severe penalties for unintentional missteps.

In short, Federal officers have spent more time checking confusing paperwork than chasing murderers, thugs, and gun runners. S. 49 corrects those problems and frees the Federal officer to go after the violent criminal, which explains why the Nation's leading law enforcement agencies—the Departments of Justice and Treasury—were joined by the American Federation of Police, the AFL-CIO Police union, and other law enforcement groups in endorsing the Senate bill.

Indeed S. 49 will ensure that the 1968 Gun Control Act better meets its two primary intents: "To provide support to . . . law enforcement officials in their fight against crime and violence" and to avoid "Any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms." S. 49's success in reinforcing those principles is the reason for its resounding victory in the Senate of the United States. For this same reason, not only America's sportsmen, hobbyists, collectors, honest firearm dealers, and over 65 million firearm owners, but also every other American interested in furthering our fight against violent crime will welcome approval of S. 49.

At this particular point, Mr. President, I ask unanimous consent to include in the RECORD a comparison of the Senate and House versions of S. 49. We quote existing law. Then we cite the Senate version and then the House version.

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

COMPARISON OF MAJOR PROVISIONS OF 99TH CONGRESS BILLS S. 49, AS PASSED BY THE SENATE, AND AS PASSED BY THE HOUSE, AND EXISTING LAW

Existing law	S. 49 (Senate version)	S. 49 (House version)
I. Interstate Sales:		
Unlawful for any person to sell or deliver a firearm to any person not residing in transferor's State of residence [18 U.S.C. 922(a)(5) and (b)(3)]. A nonlicensee may not receive in his State of residence a firearm obtained outside that State [18 U.S.C. 922(a)(3)]. Major exception: licensee sale of longguns to residents of contiguous States having enabling legislation.	Nonlicensees may acquire firearms outside their State of residence if obtained over-the-counter from a licensee and the transaction is lawful where the transferee resides and the transaction occurs. Interstate transactions between nonlicensees continue to be prohibited, as is interstate shipment by a licensee to a nonlicensee.	Same as Senate, except interstate sale by licensees to nonlicensees is limited to rifles and shotguns.
II. Waiting period:		
7-day waiting period for intrastate mail-order sale of any firearm or contiguous State sale of longgun [18 U.S.C. 922(c) and 922(b)(3)].	Retains 7-day period for intrastate mail-order sale of any firearm. No waiting period for interstate sale of firearms unless required by applicable State law.	Same as S. 49 (Senate).
III. Licensing:		
To qualify for license, applicant must be "engaged in the business" of manufacturing, importing, or dealing in firearms or ammunition. Term not defined by statute [18 U.S.C. 922(a)(1) and 923(a)].	Eliminates ammo dealers. Defines "engaged in the business" as those who regularly import, manufacture and deal with the "principal objective of livelihood and profit" through the "repetitive purchase and resale of firearms." The term "principal objective of livelihood and profit" means that ". . . the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intentions such as improving or liquidating a personal firearms collection.".	Same of S. 49 (Senate).
IV. Place of doing business:		
A licensee may not engage in a firearms business on premises other than that specified on his license [18 U.S.C. 923]; however, regulations allow licensees to do business at gun shows located in the same State as that specified on the license as an extension of their licensed premises. Records of firearms transactions at the show and inventory of firearms subject to inspection.	Incorporates the language of the regulation into the statute, thus allows licensees to do business temporarily at a show or event sponsored by "any national, State, or local organization, or any affiliate of any such organization devoted to the collection, competitive use, or other sporting use of firearms, or an organization or association that sponsors events devoted to the collection, competitive use or other sporting use of firearms in the community." Records of firearms transactions at the show subject to inspection.	Same as Senate, except that both records and firearms inventory subject to inspection at the gun show.
V. Records of firearms transactions:		
Licensees are required to maintain records of all firearms and ammunition transactions, including records of the disposition of personal firearms.[1] Disposition records include the name, age and place of residence of the purchaser. Any record information identifying purchasers and obtained by the Secretary may be furnished to State and local officials [18 U.S.C. 922(b)(5) and 923(g)].	No regulation issued after effective date may require that records or their contents be transferred to a Government facility or that any system of firearms registration be established.	Same as S. 49 (Senate).
	No record of the disposition of personal firearms need be kept except where the firearm is disposed of within 1 year of its transfer from business inventory into the personal collection or the transfer is made for the purpose of evading the recordkeeping requirements.	Substantially the same as Senate, except that recordkeeping would be required if the firearm acquisition or disposition is made for the purpose of evading recordkeeping requirement.
	Licensed collectors need only keep a "bound book" record, i.e., Forms 4473, which establish purchaser's identity and eligibility to acquire firearms, are eliminated.	Same as S. 49 (Senate).
	Ammunition recordkeeping is eliminated	Licensed firearms importers, manufacturers and dealers must record information about the purchaser of armor-piercing ammunition.
	Secretary may only disclose to State, local and other Federal officials record information identifying purchasers prohibited from purchasing or receiving firearms.	Same as S. 49 (Senate).

COMPARISON OF MAJOR PROVISIONS OF 99TH CONGRESS BILLS S. 49, AS PASSED BY THE SENATE, AND AS PASSED BY THE HOUSE, AND EXISTING LAW—Continued

Existing law	S. 49 (Senate version)	S. 49 (House version)
VI. Inspection of licensee records:		
Secretary authorized to make unannounced, warrantless inspections of licensee records and inventory at all reasonable times [18 U.S.C. 923(g)].	Warrant required to inspect records and inventory of licensed importers, manufacturers and dealers, except (1) in the course of a criminal investigation of a person other than the licensee, (2) 1 annual inspection upon notice or (3) in firearms tracing. Without warrant, licensed collectors subject to 1 annual inspection upon notice and inspection to trace firearms. Secretary may not bring criminal charges against the licensee based upon annual inspection except for willful violations of the recordkeeping requirements or sales to prohibited persons.	Same as Senate, except that annual inspection may be made without prior notice and there is no restriction on the use of evidence of crime discovered.
Interstate Sales:		
	Out-of-business records may be used only to trace firearms and to make official certifications in court proceedings.	Same as existing law.
	Except for records of the manufacture and importation of firearms, records maintained by Treasury/GSA must be disposed of after 20 years.	Same as existing law.
	Neither a warrant nor criminal prosecution may be based solely on information from reports of specific firearms transactions.	Same as existing law.
	Out-of-business records and reports of specific firearms transactions may not be kept in a central location nor computerized for storage or retrieval.	Same as existing law.
VIII. Administrative sanctions against licensees:		
Application for a license, or for a renewal, may be denied for failure to meet statutory criteria [18 U.S.C. 923(d)]. License may be revoked for a willful violation of any provision of the Act or regulations promulgated thereunder [18 U.S.C. 923(e)]. Judicial review by Federal district courts is usually limited to the administrative record.	No license could be denied or revoked upon charges in a criminal case if the licensee is acquitted or the criminal case is terminated other than upon Government's motion prior to trial. No revocation action could commence more than 1 year after the filing of indictment or information. Judicial review would be de novo.	Same as S. 49 (Senate).
Application for a license, or for a renewal, may be denied for failure to meet statutory criteria [18 U.S.C. 923(d)]. License may be revoked for a willful violation of any provision of the Act or regulations promulgated thereunder [18 U.S.C., 923(e)]. Judicial review by Federal district courts is usually limited to the administrative record.	No license could be denied or revoked upon charges in a criminal case if the licensee is acquitted or the criminal case is terminated other than upon Government's motion prior to trial. No revocation action could commence more than 1 year after the filing of indictment or information. Judicial review would be de novo.	Same as S. 49 (Senate).
IX. Importation:		
The Secretary may authorize a firearm or ammunition to be imported if it is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding military surplus firearms [18 U.S.C. 925(d)]. [2].	Alters language of existing statute to remove the Secretary's apparent discretion to deny permits to import firearms and ammunition meeting the statutory criteria for importation. Deletes the language "generally recognized as particularly." Prohibits the importation of barrels for nonimportable firearms.	Same as S. 49 (Senate).
X. Mandatory penalties for carrying or using firearms and ammunition in the commission of Federal Crimes:		
Prohibits the carrying or use of a firearm during and in relation to a Federal crime of violence. Imposes mandatory sentences of 5 years imprisonment for first offense and 10 years for subsequent offenses—no suspension of sentence, probation or parole [18 U.S.C. 924(c)]. Similar mandatory penalties for the use or carrying of a handgun loaded with armor-piercing ammunition [18 U.S.C. 929].	Adds a further element of proof to section 924(c) that the firearm was carried or used "in furtherance of" the violent Federal crime and allows the court to impose no sentence if the use of the firearm was in self-defense or defense of another person.	Amends both sections 924(c) and 929 to include Federal drug felonies, in addition to violent Federal crimes, as predicate offenses for the purpose of imposing mandatory penalties for the carrying or use of firearms and handguns loaded with armor-piercing ammunition.

COMPARISON OF MAJOR PROVISIONS OF 99TH CONGRESS BILLS S. 49, AS PASSED BY THE SENATE, AND AS PASSED BY THE HOUSE, AND EXISTING LAW—Continued

Existing law	S. 49 (Senate version)	S. 49 (House version)
	Amends section 924(c) to include Federal drug felonies, in addition to violent Federal crimes, as predicate offenses for the purpose of imposing mandatory penalties for the carrying or use of firearms.	Provides mandatory penalties of 10 years for first offenders and 20 years for subsequent offenders if the firearm carried or used in violation of section 924(c) is a machinegun. The penalty also applies if the firearm carried or used is equipped with a silencer. "Silencer" amended to include any combination of parts designed or redesigned and intended for use in assembling a silencer and any part intended only for use in such assembly.
XI. Firearms transactions involving prohibited categories:		
(a) Possession of firearms by prohibited persons:		
The Gun Control Act and Title VII of the Omnibus Crime Control and Safe Streets Act prohibit specified categories of persons, e.g., persons convicted of crimes punishable by imprisonment for a term exceeding 1 year, from shipping or transporting firearms in interstate or foreign commerce and from receiving or possessing firearms that previously moved in such commerce [18 U.S.C. 922(g) and (h) and 18 U.S.C. App. 1201-1203].	Same as existing law, except that Title VII would be substantially repealed and its provisions incorporated into the Gun Control Act.	Repeals Title VII and incorporates its provisions, including Armed Career Criminal Act, into the Gun Control Act.
(b) Sales to prohibited persons:		
Licensees may not lawfully sell or deliver firearms or ammunition to specified categories of prohibited persons [18 U.S.C. 922(d)].	Unlawful for any person, whether licensed or not, to make such sales or deliveries.	Same as S. 49 (Senate).
(c) Definition of crime punishable by imprisonment for more than one year:		
Conviction of such crime is deemed to have occurred upon a guilty plea or finding of guilt by the court, regardless of whether the person is considered to have been convicted under State law. Definition excludes State misdemeanors punishable by imprisonment for 2 years or less, unless the crime involved a firearm or explosive. State pardons and expunctions of the conviction do not erase the conviction for Federal purposes [18 U.S.C. 921(a)(20)].	A conviction is determined by the law of the jurisdiction in which the proceedings were held. State pardons and expunctions of the conviction would erase the conviction for Federal purposes, unless the person is expressly denied the right to possess or receive firearms. State misdemeanors punishable by imprisonment for 2 years or less, including those involving a firearm or explosive, excluded from the term.	Same as S. 49 (Senate).
(d) Relief from disabilities:		
Relief from disabilities of conviction of a crime punishable by imprisonment for a term exceeding 1 year may be granted by the Secretary if satisfied that relief would not be contrary to public interest and safety. A person is ineligible to apply if his crime involved the use of a firearm or other weapon or if convicted of a violation of the Gun Control Act or the National Firearms Act [18 U.S.C. 925(c)]. Judicial review is limited to the administrative record to determine if a reason existed for denial of relief.	Allows relief for all categories of persons having Federal firearms disabilities and removes the bar to relief for felons whose crimes involved the use of a firearm or other weapon or whose conviction was for a violation of GCA or NFA. Expressly provides for judicial review and the court may hold a trial de novo.	Same as S. 49 (Senate).
XII. Forfeiture of firearms and ammunition:		
Any firearm or ammunition involved in, or used or intended to be used in any violation of the act, any regulation thereunder, or any other Federal criminal law is subject to seizure and forfeiture [18 U.S.C. 924(d)].	Where seizure and forfeiture is based upon the involvement of the property in a violation of a provision of the Act, the intent element applicable to a criminal prosecution under that provision must be established.	Same as S. 49 (Senate).

COMPARISON OF MAJOR PROVISIONS OF 99TH CONGRESS BILLS S. 49, AS PASSED BY THE SENATE, AND AS PASSED BY THE HOUSE, AND EXISTING LAW—Continued

Existing law	S. 49 (Senate version)	S. 49 (House version)
	Where the grounds for seizure and forfeiture is that the property is "intended to be used" in a violation, "clear and convincing evidence" of such intent must be shown. Also, this ground would be limited to certain specified crimes, i.e., crimes of violence, drug-related offenses, illegal exportation and certain violations of the Gun Control Act. The GCA offenses include 18 U.S.C. 922(a)(1), (a)(3), (a)(5) and (b)(3) where the property is involved in a "pattern of activities" including an actual violation of the statute; 18 U.S.C. 922(d) where the intent is that of the seller making an illegal sale to a prohibited person; and any violation of 18 U.S.C. 922(i), (j), (l), (n), or 924(b).	
	If owner or possessor of the property is acquitted of criminal charges upon which the seizure was based, property must be returned unless he would be placed in violation of the law. Forfeiture proceeding must be commenced within 120 days of seizure.	
XIII. Criminal penalties:		
"Willingness" is not an element of proof of any GCA offense [18 U.S.C. 924(a)]. Offenses punishable by 5 years imprisonment or $5,000 fine, or both.	Requires proof of "willful" violation for certain prosecutions and proof of a "knowing" violation for remainder of prosecutions. Section 924 would provide that whoever knowingly violates subsections (a)(4), (a)(6), (f), (g), (h), (i), (j) or (k) of section 922, or knowingly imports or brings into the United States any firearm or ammunition in violation of section 922(1), or knowingly violates any provision of section 924, or willfully violates any other provision shall be fined not more than $5,000 or imprisoned not more than 5 years, or both. Note: section 929 would require "willful" element.	Same as Senate except violations of section 922(h) would require proof of willfulness and violations of section 929 would require "knowing" intent.
	Reduces to a misdemeanor any licensee recordkeeping violation.	Same as S. 49 (Senate).
XIV. Effect on State law (interstate transportation of firearms):		
No provision of the GCA excludes any State law on the same subject matter, unless there is a direct and positive conflict so that the two cannot be reconciled [18 U.S.C. 927], e.g., since the GCA does not convey any right to transport a firearm interstate, the States may prohibit such transportation.	A person is entitled to transport an unloaded, not readily accessible firearm interstate notwithstanding any provision of State or local law to the contrary; thus, any such provision is preempted.	Same as S. 49 (Senate).
XV. Provisions relating to National Firearms Act weapons:		
(a) Silencers:		
The NFA imposes making and transfer taxes on silencers and occupational taxes on those engaged in business in such items. It also requires the registration of silencers upon their making, manufacture and transfer [26 U.S.C. Chapter 53]. Silencer means any device for diminishing the report of a firearm or a combination of all the parts of an unassembled silencer.	No change in existing law	See X above on silencers.
The GCA defines firearm to include silencer (18 U.S.C. 921(a)(3)(C).		

COMPARISON OF MAJOR PROVISIONS OF 99TH CONGRESS BILLS S. 49, AS PASSED BY THE SENATE, AND AS PASSED BY THE HOUSE, AND EXISTING LAW—Continued

Existing law	S. 49 (Senate version)	S. 49 (House version)
(b) Machineguns: The NFA definition of machinegun includes, among other things, any combination of parts designed and intended for use in converting a weapon into a machinegun, i.e., conversion kits [26 U.S.C. 5845(b)].	No change in existing law	Prohibits the possession or transfer of machineguns, except (1) for a transfer to or by, or possession by or under the authority of Federal or State agencies, and (2) any lawful transfer or lawful possession of a machinegun lawfully possessed before the date the President signs the bill. This prohibition becomes effective when the bill is signed. Machinegun conversion kit definition is, for purposes of GCA and NFA amended to mean "any part designed and intended solely and exclusively, or combination of parts designed and intended for use in converting a weapon into a machinegun."
XVI. Attorneys fees: No provision for attorneys fees	Allows a court to award a reasonable attorneys fee to the prevailing party, other than the United States, in a forfeiture proceeding. In any other proceeding under the Act, the court may award such fee where the action is determined to be without foundation, frivolous or in bad faith.	Same as Senate, except that the Government is liable for attorneys fees only as appropriated.

[1] These requirements were nullified with regard to ammunition suitable for use only in shotguns and rifles by Public Law 91-128 (Nov. 26, 1969), amending 26 U.S.C. 4182. They were also nullified with regard to .22 caliber rimfire ammunition by Public Law 97-377 (Dec. 21, 1982), amending 18 U.S.C. 922(b)(5) and 923(g).

[2] To make the determination with respect to handguns, the Secretary relies on "factoring criteria" developed by a panel of experts. In addition to satisfying certain prerequisites, a handgun must be awarded a specified number of points for such features as weight, size, construction, and safety features. Furthermore, Public Law 98-573 (Oct. 30, 1984) added a new section 925(e) permitting licensed importers to import surplus military firearms classified as curios or relics, however, handguns must still be particularly suitable for sporting purposes and meet the "factoring criteria."

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we will have an opportunity to speak at greater length on the gun control bill which is before us now, S. 49, but I for one cannot permit the general description of the legislation that has been made by my good friend from Utah to remain unresponded to here on the floor of the Senate.

I think all Americans are very much aware of the tragedies which have taken place, not only in this country but abroad, because of the acts of terrorism. All Americans are very aware that this phenomenon that has developed in recent times, and something that we have heard about from Tokyo the past several hours, may very well be focused on the United States in a very dramatic and important and significant way.

But, Mr. President, we already have terrorists in the cities of this country. The inner cities of this country are free fires zones, because of the massive proliferation of the small, concealable handguns which are used time and time again in crimes of violence.

There were important changes made in the House of Representatives to the legislation that passed here last July. They addressed some of the most egregious aspects of the bill that we passed. I was one of the 15 or so who voted against the Senate bill. Many of us applaud the work that was done by the House of Representatives.

The fact remains, Mr. President, that this legislation is still a retreat from necessary handgun control. It is not really going to help hunters. It is going to help dealers. What it is going to do is make it more complex, more difficult for law enforcement officials, who are attempting to deal with one of the great cancers of our society, and that is handgun violence in our country, perhaps even around the world. It is going to make their job more difficult. That is why the representatives of the 10 police associations, those men and women who are on the front line of violence every single day, in the inner cities, in rural communities—trying to ensure that our homes are going to be safe and secure—they believe this bill is seriously flawed and that some amendments ought to be accepted. They are not unreasonable amendments, and we shouldn't allow this bill to move forward without them. Evidently, we will have the opportunity to address those issues this afternoon.

Mr. President, it is tragic that at the very time when many are making statements and pronouncements and issuing press releases about violence in our society, about crime in our communities, about how we are going to face new threats of terrorism, we are seeing, by the various provisions of this bill, a pattern of weakening of legitimate law enforcement officials to deal with handgun violence and the proliferation of handguns in our society.

That is why virtually all the law enforcement organizations that, as I said, are doing such an outstanding job for the citizens of this Nation feel that several amendments are essential and why they basically oppose this bill.

I look forward to having an opportunity to talk about this at greater length and to review them in greater detail with our colleagues later in the afternoon. But I wanted to make these remarks at this time, and to ask unanimous consent that the text of the letter to all Senators from leaders of every major law enforcement and police group in this Nation be printed at this point in the RECORD.

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

LAW ENFORCEMENT STEERING
COMMITTEE AGAINST S. 49,
April 21, 1986.

DEAR SENATOR: At a time when our nation is fighting terrorists overseas, Congress soon may greatly increase the opportunities at home for terrorists and other criminals to obtain untraceable firearms, including concealable handguns, and transport them across state lines.

But the Senate can prevent the potential escalation in gun violence and thus help to safeguard the lives of law enforcement officers and the citizens they are sworn to protect.

This is because you will be able to vote with law enforcement on several key amendments to S. 49, gun legislation that is pending in the Senate after having been modified and passed by the House of Representatives.

The Law Enforcement Steering Committee Against S. 49, made up of the nation's 12 principal law enforcement organizations, urges you to support amendments to the pending legislation that will:

Maintain the right of states to control the transport of firearms within their borders, without interfering with the ability of individuals to transport across state lines unloaded, inaccessible firearms for sporting purposes;

Close a loophole in House-passed legislation that would facilitate unrecorded distribution of weapons by and to terrorists and other criminals;

Retain current law that requires gun dealers to keep records on all firearms sales, thus preserving law enforcement's ability to trace firearms used in crime.

These amendments represent bottom-line needs of law enforcement in its fight to forestall gun crimes and deal with violent offenders.

I. The gun lobby says that current federal gun legislation needlessly obstructs the legitimate interests of sportsmen by keeping them from transporting firearms across state lines for hunting, shooting competitions, and other sporting events. The Law Enforcement Steering Committee proposes to respond to that problem while retaining the rights of the states to regulate the transport of firearms across their lines. The Steering Committee's amendment would permit a resident of a state who lawfully possesses and carries a firearm in his home state to transport that firearm to another state here he may lawfully possess and carry it if:

The transport of the firearm is for a lawful sporting purpose;

The firearm is consistently transported in a way that it is not readily accessible (handguns must be in locked containers); and

Ammunition being transported for the firearm is kept in locked compartment.

In sum, the Steering Committee's amendment would keep intact the states' ability to enforce concealed weapons laws with respect to their own residents and to control the flow of firearms within their borders, except when those firearms were transported interstate for clearly defined, legitimate sporting purposes.

II. The second LESC amendment would close a loophole in the Houe bill that would facilitate unrecorded distribution of weapons by terrorists. According to a February 10, 1986 memo prepared by the director of the Bureau of Alcohol, Tobacco and Firearms, S.49 contains too narrow a definition of persons "engaged in the business" of dealing in firearms. "Consequently," according to the BATF memo, "some criminal activity that may be prosecuted under existing law for engaging in firearms business without a license may not be prosecutable under S.49. For example, an individual who on several occasions disposed of firearms at cost to terrorists for the purpose of facilitating their crimes may not be held to be 'engaging in the business.' "

The Steering Committee amendment makes clarifying changes in the House bill's definition of a dealer to make certain that the definition of a dealer covers individuals who dispose of firearms to terrorist groups.

III. A final LESC amendment would retain current law that requires that dealers keep records of all sales. Without such requirements, law enforcement would face a flood of untraceable firearms used in crimes. The amendment simply assures that firearms dealers continue to be required to take a few minutes to record sales of firearms.

We urge your support for law enforcement's amendments and for public safety when S.49 comes up for a vote on the Senate floor.

Sincerley,

Robert E. Van Etten, President, Federal Law Enforcement Officers Association; Richard A. Boyd, National President, Grand Lodge, Fraternal Order of Police; Jerald R. Vaughn, Executive Director, International Association of Chiefs of Police; Kenneth T. Lyons, National President, International Brotherhood of Police Officers; William Kolender, President, Major Cities Police Chiefs; Robert T. Scully, President, National Association of Police Organizations; Marty M. Tapscott, President, National Organization of Black Law Enforcement Executives; L. Cary Bittick, Executive Director, National Sheriffs' Association; Thomas J. Iskrzycki, Chairman, National Troopers' Coalition; Cornelius J. Behan, President, Police Executive Research Forum; Hubert Williams, President, Police Foundation; E. Roberta Lesh, Executive Director, Police Management Association.

Mr. HATCH. Mr. President, I have heard the remarks of the distinguished Senator from Massachusetts, but let us be honest about it. All these matters have been discussed; all of them have been debated ad infinitum.

The purpose of this reconsideration by the Senate at this time is because the House has passed our bill, added amendments to it, and we intend to pass the House bill.

There is no question that there will always be some discontent with any bill passed here that has any controversy to it. This is a law and order bill. It protects sportsmen from the type of officious meddling that has come from overbureaucratization in our society, and it has been long overdue. It is almost 20 years overdue. I think it is time we start doing what is right for the sports people and at the same time tighten up our criminal laws.

THE NOMINATION OF DR. JAMES C. FLETCHER TO BE ADMINISTRATOR OF NASA

Mr. HEFLIN. Mr. President, I rise to express my support for the nomination of Dr. James Fletcher to be the Administrator of NASA. Dr. Fletcher has an outstanding reputation and his long experience in space issues makes him well qualified to head the space agency.

It is vitally important that we get strong leadership at NASA. It has been more than 5 months since NASA has had a permanent Administrator. Since that time the agency has suffered the tragic loss of the shuttle *Challenger*, and, most recently, the loss of a Delta rocket. Morale is lower at the agency than at any time in recent memory and the public has lost confidence in our Space Program. We must move with haste to fill the void in leadership at NASA and get the Space Program moving in a positive direction once again. I believe Dr. Fletcher would bring to NASA the integrity and decisive leadership ability the agency so sorely needs at this time.

Dr. Fletcher served as the Administrator of NASA on a previous occasion, from 1971–77. He came to NASA from the University of Utah where he had served as president since 1964. Prior to that he had a distinguished career in the aerospace industry.

Dr. Fletcher took over at NASA in 1971 when public enthusiasm for the Space Program was very high. Just 2 months prior to his swearing in ceremony, Apollo 14 had successfully completed the third manned lunar landing. Apollo 15, which carried the lunar roving vehicle, completed its spectacular success during this third month. This was followed by two more Apollo flights, completing the Apollo Program. Along with these came the unmanned visits to Mars in the Mariner series, the visits to Jupiter in the Pioneer series, the launching and triple visits to Skylab the last of which lasted 3 months.

Dr. Fletcher's administration was distinguished as the longest sustained period of manned and unmanned exploratory adventures in space. His administration was also significant in that the actual design and construction of the space shuttle began. Therefore Dr. Fletcher presided over the culmination of NASA's initial space effort, the era of expendable boosters, as well as the planning and start of the transition to a reusable space transportation system. When he resigned in May 1977 the first shuttle orbitor was completing the captive phase of its test flights, being carried on the back of a Boeing 747.

In recent weeks articles have appeared in the New York Times portraying waste and mismanagement at NASA over the last 15 years, a part of which was during Dr. Fletcher's term as Administrator. These articles cited Federal audits which referred to problems of cost overruns, contract mismanagement, and technical difficulties at NASA, particularly in the Shuttle Program. In my judgment, while these deficiencies point out the immense problems of running an agency the size and character of NASA, it also indicates that Congress has not exercised its oversight responsibilities to the degree it should. We must also remember that the development of the shuttle was one of the most difficult and technically demanding programs ever undertaken by the agency. In the future NASA and Congress should discharge their responsibilities more thoroughly, but we should not attempt to attribute all of NASA's prob-

lems over a 15-year period to Dr. Fletcher.

As NASA Administrator one of Dr. Fletcher's first goals should be to restore public confidence in our Space Program. At the same time he should get the Shuttle Program back on schedule and go forward with such important new initiatives as the manned space station. In accomplishing these goals, Dr. Fletcher must once again make safety in our Space Program a top priority. I believe Dr. Fletcher possesses the leadership and skills necessary to accomplish these goals and return NASA to its position as the preeminent Space Program in the world. He has a difficult and awesome task before him and deserves the support of the Senate.

Thank you, Mr. President.

Mr. KERRY. Mr. President, today's vote on Dr. James Fletcher as administrator of the National Aeronautics and Space Administration is a matter to which I have given serious consideration. Like most of my colleagues and indeed most Americans I have noted the outstanding accomplishments of the Agency over the last decades with great pride. America's leadership in space has been a tribute to the best in this Nation. Our vision and pioneering spirit as well as our competitive lead in science and engineering have kept us in the forefront of the exciting challenge of opening and exploring space. And we all know that we are only at the threshold of that enormous challenge. Unparalleled opportunities exist in the space program's future for developments in science, commerce and national security.

The recent tragedy of the *Challenger* accident and the subsequent losses of the Titan and Delta and their payloads, will not stop the forward movement of America's space program. But those incidents do raise new, critical issues about NASA and the direction our space program must take in the future. Basic choices face us, choices which have enormous significance for America and the world community. These choices will mean selection of priorities in everything from national fiscal resources to launch manifests. They will mean potentially irrevocable commitments to the militarization of space. They will mark the course of future space development for generations to come.

Mr. President, I believe that it is time for us to move into the future with new leadership at the head of NASA. Dr. Fletcher's distinguished career has indeed been a credit to him and to the agency. But, as we face the inevitably of necessary changes and adjustments in NASA and related programs, I believe it is imperative that fresh leadership take us there.

And finally, I have serious reservations regarding Dr. Fletcher's positions and judgments on the strategic defense initiative.

It is therefore impossible for me to support this nomination and I shall vote against it.

RECESS UNTIL 2 P.M.

Mr. HATCH. Mr. President, I move that the Senate stand in recess until 2 p.m.

The motion was agreed to; and at 11:42 a.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. NICKLES].

EXECUTIVE SESSION

The PRESIDING OFFICER. The Senate will now proceed to executive session.

NOMINATION OF JAMES C. FLETCHER, OF VIRGINIA, TO BE ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the Senate will now proceed to vote on the nomination of James C. Fletcher, of Virginia, to be Administrator of the National Aeronautics and Space Administration.

The question is, will the Senate advise and consent to the nomination of James C. Fletcher, of Virginia, to be Administrator of the National Aeronautics and Space Administration?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Florida [Mrs. HAWKINS] and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

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

The result was announced—yeas 89, nays 9, as follows:

[Rollcall Vote No. 90 Ex.]

YEAS—89

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

NAYS—9

Byrd	Gore	Proxmire
DeConcini	Hart	Sasser
Eagleton	Kerry	Simon

NOT VOTING—2

Hawkins	Stevens

So the nomination was confirmed.

□ 1420

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the President of the United States be immediately notified of the confirmation of this nomination.

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

LEGISLATIVE SESSION

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Senate resume legislative session.

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

ORDER OF BUSINESS

Mr. SIMPSON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The business pending before the Senate is a message from the House on S. 49.

Mr. SIMPSON. Mr. President, it is the intention of the majority leader to proceed with that measure to its conclusion. Then, of course, we shall go to the Saudi Arabian arms issue and on to the military reorganization bill. This is for the benefit of our colleagues on both sides of the aisle. I share that with the Democratic leader. I can indicate at this time that there will be votes on Friday. At least, that is the present intention. Without an attempt to lay out the full scenario of the week, I share those salient points which mean so much to us all.

Mr. BUMPERS. Mr. President, will the Senator yield for a moment?

Mr. SIMPSON. Yes, I yield.

Mr. BUMPERS. Will the Senator tell us without laying out the scenario for the rest of the week whether or not it is the leader's intention to stay in the rest of this evening?

Mr. SIMPSON. Mr. President, I cannot give a full response, but I do not believe it is the leader's intent to have a late evening session tonight. I

shall share that, but shall get more information to the Senator later.

Mr. BUMPERS. How much time is going to be required on S. 49, does the Senator know?

Mr. SIMPSON. Mr. President, the managers are not here so that I can confer on that. I am not aware of the number of amendments.

Mr. BUMPERS. I thank the Senator.

Mr. SIMPSON. 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. GORTON and Mr. COCHRAN occupied the chair during the quorum call.)

□ 1640

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

The PRESIDING OFFICER (Mr. HATFIELD). The Chair, in his capacity as a Senator from Oregon, must object.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The assistant legislative clerk continued the call of the roll.

□ 1720

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

The PRESIDING OFFICER (Mr. GARN). Is there objection? Without objection, it is so ordered.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that I may proceed as if in morning business for 3 minutes.

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

WELCOME TO RURAL ELECTRIFICATION DELEGATION

Mr. BOSCHWITZ. Mr. President, during these days, a number of delegations from various parts of the country are here in the Capital in behalf of the Rural Electrification Administration and the various co-ops that are part of that great system. They have come here for the purpose of furthering the cause of rural electrification and what it brings to the very troubled part of the United States that we find in rural America.

The Rural Electrification Administration has brought light and heart and hope to the rural parts of the United States for half a century, so it is with great pleasure that I speak in their behalf. I acknowledge their presence in Washington at this time and wish them well as they go about their chore of seeing that that important element of our Federal Government continues.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

FIREARMS OWNERS' PROTECTION ACT

Mr. DOLE. Mr. President, I believe we are about ready to make things happen here. It may not appear that way from the previous 4 or 5 hours, but we believe we now have S. 49 and the accompanying legislation with reference to firearms protection worked out. We can do both of those matters by voice vote with very limited debate—and I underscore limited.

Then I shall move to the Calendar No. 633, Senate Joint Resolution 361, the Saudi arms sale. Hopefully, we will get an agreement of 1 hour on that matter and dispose of that yet this evening. I assume there will be a roll-call vote.

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

Mr. DOLE. Yes, Mr. President.

Mr. BYRD. I did not hear his last statement. Would he repeat it, please?

Mr. DOLE. After we dispose of the two firearms bills—S. 49 and the accompanying gun bill—I shall ask unanimous consent to proceed to Calendar No. 633, Senate Joint Resolution 361, the Saudi arms sale resolution. If we can get consent, we will move to that and hopefully dispose of that with a time agreement of an hour equally divided and hope to dispose of that this evening.

Mr. BYRD. And that will be it?

Mr. DOLE. I hope it will be it.

Mr. CRANSTON. If the Senator can include in his motion that there be only 1 hour, that will be part of the motion. Then it does not need unanimous consent.

Mr. DOLE. I shall do that.

Mr. METZENBAUM. Mr. President, before the Senator makes the unanimous-consent request, I want first to express my appreciation for the cooperation of the majority leader and the chairman of the Energy and Natural Resources Committee [Mr. MCCLURE] and the chairman of the Committee on the Judiciary [Mr. THURMOND], as well as the chairman of the Labor and Human Relations Committee [Mr. HATCH]. We have had some very extensive negotiations this afternoon and we have been able finally to work out an understanding that the McClure-Volkmer bill that some of us continue to oppose—certainly the votes are here to pass it—will be passed on a voice vote.

Immediately thereafter, it is my understanding that the Senator from South Carolina will call up his bill, which will be modified with certain amendments having to do with the same bill, the McClure-Volkmer bill, or the same subject. That bill will also then be passed on a voice vote.

In doing that, I want to inquire of my colleague from Utah [Mr. HATCH] whether I am correct in my understanding that the Thurmond bill, when it goes over to the House, will not be opposed by the National Rifle Association and will not be opposed by the principal supporter of S. 49, Mr. VOLKMER; and that the best of his understanding and knowledge is that that bill will be able to move forward with dispatch over there, although it is fair to point out that the National Rifle Association is not supporting it, but they will not oppose it. Am I correct in my understanding?

□ 1730

Mr. HATCH. Let me reply to the distinguished Senator from Ohio, it is true that this agreement has been run by the representatives of all of the people he has talked about including the National Rifle Association representatives, and it is true that although they do not support the Thurmond bill that will be called up immediately following S. 49's passage by voice vote and will be passed by voice vote, the National Rifle Association will not oppose the Thurmond bill in the House. It is also equally true that the distinguished principal sponsor of the bill in the House, Mr. VOLKMER, will not oppose the bill. I personally talked with the distinguished Member of the House, Mr. DINGELL, who has been a very key player on this bill, and he has agreed to not oppose it. So I believe that the Senator is correct in his assertion here today, and I would like to just move as quickly as we can to resolve this.

Mr. METZENBAUM. I have no problem about moving as quickly as possible, but I think we ought to have the understanding that we all expect the end result will be that the McClure-Volkmer bill will be finalized and that the Thurmond bill will be not only passed by the Senate but that there is every absolute likelihood that it will be passed through the House without any impediments.

Mr. HATCH. The distinguished Senator from Ohio is correct. We expect there not to be opposition by the leading spokesmen for S. 49, which will pass there today by voice vote, and we expect the distinguished Senator from South Carolina to immediately call up his bill, which, as we view it, does not compromise the body of S. 49; it only clarifies several ambiguities in the

eyes of those who have worked on it. Indeed, this was the original intent of our provisions in S. 49 when we passed it the first time in the Senate, so we believe that it will resolve some problems. I personally thank the distinguished Senator from Ohio and others for their efforts in helping to bring about the clarification of some of these ambiguities.

Mr. METZENBAUM. I thank the Senator from Utah. I think that clarifies the situation.

Mr. HATCH. In bringing this to pass today there have been many players and many people who have worked very hard on this including law enforcement officials, Members of the House, and Members of the Senate, but I particularly pay special tribute to Senator DOLE, who has made it possible for S. 49 to come to the Senate floor. He has been a principal sponsor of the amendment, not only when he was on the Judiciary Committee but this year off the Judiciary Committee and of course as majority leader and without him there is no question we would not be at this point.

Mr. METZENBAUM. I now see the principal sponsor of the McClure-Volkmer bill on the floor. I want to point out to him that there has been a representation made by the Senator from Utah indicating that he expects and anticipates that both of these bills will be passed by voice vote this evening and that there will be no special impediment or any impediments put in the way of passing the Thurmond bill when it goes over to the House.

Mr. McCLURE. Will the Senator yield?

Mr. METZENBAUM. I certainly will.

Mr. McCLURE. I will be pleased to respond to the Senator. As the principal sponsor of the bill, I had authorized the Senator to make that representation on my behalf, but I am pleased to be able to be here and do it personally as well.

I have talked to the principal sponsor in the House, Congressman VOLKMER, and I think I am authorized by him to state that while he is less than enthusiastic, he will not object and will not oppose the Thurmond bill when it comes over to the House. And certainly it is my expectation that the Senate will pass it. I have talked to officials of the National Rifle Association, and again I think it is fair to say that they are less than enthusiastic but they are not going to mount any effort to destroy this opportunity for passage of both bills today in the Senate and the passage of the second bill in the House when it arrives there.

Now, I think in fairness we also ought to add one other thing, and that is if there is an attempt in the House of Representatives to amend the Thurmond bill to make it a much broader kind of a vehicle, that would be opposed.

Mr. METZENBAUM. I understand the Senator.

Mr. McCLURE. If it completely changed the Senate version of the bill.

Mr. METZENBAUM. We are discussing the bill as it passes the Senate.

Mr. McCLURE. The Senator is correct.

Mr. METZENBAUM. We understand. I understand if it becomes a different bill, that, of course, all understandings would be off.

Mr. KENNEDY. Will the floor manager yield?

Mr. HATCH. I yield to the Senator from Massachusetts.

Mr. KENNEDY. I wish to express my appreciation to the floor managers of the bill, the Senator from Utah [Mr. HATCH] and also Senator McCLURE and Senator THURMOND, for working out a satisfactory procedure, and of course, Senator METZENBAUM who worked so effectively in representing our side.

I think this is a very reasonable request. I think it has demonstrated the interest of all Members in learning the legitimate concerns of the law enforcement officers of this country. I think it is a tribute to them for their constancy in following this issue. I know, from my own conversations with them, they are interested in not interfering with the legitimate interests of the sportsmen but also in their very deep, continuing and abiding concern about violence in our society.

I believe that the procedures which have now been outlined demonstrate the sensitivity to those very deep concerns. I welcome the opportunity to join with the chairman of the Judiciary Committee, Senator THURMOND, and others in cosponsoring his compromise bill. It is a very constructive and positive outcome for the Senate on these issues. So I express my appreciation for the time and effort that has gone into permitting us to get to this point in the deliberations.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. I thank my good colleague from Massachusetts for his kind and gracious remarks. I would also like to state finally that the principal sponsor of this bill, Senator McCLURE, has worked long and hard for many, many years to bring this to this point and he has worked long and hard today. Without him this bill, frankly, would not be in the position that it is right now, so I personally express my deep regard and affection for him.

Mr. President, I ask unanimous consent that a colloquy between Senator DOLE and myself be placed in the RECORD at this point.

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

MACHINEGUN COLLOQUY

Mr. DOLE. At the close of the debate on S. 49 in the House of Representatives, the House adopted an amendment dealing with automatic weapons. That amendment is quite brief. It states:

(o)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

(2) This subsection does not apply with respect to—

(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date the subsection takes effect.

This language raises many questions which I would like to explore with my colleague, the Senator from Utah, who is also the floor manager of S. 49. In the first place, I would like to confirm my own understanding of the second exception to the general ban on possession and transfer of machineguns. This appears to be a grandfather clause which covers all machineguns that are lawfully possessed at the time of enactment of S. 49. Is that correct?

Mr. HATCH. The Senator is correct. This language means that any automatic weapon registered in compliance with the National Firearms Act prior to the date this bill is enacted would continue to be governed solely by the 1934 law. In other words, any machinegun or parts of a machinegun that constitute a machinegun which is currently in compliance with the national act may be transferred and possessed without regard to section 102 of this act.

Mr. DOLE. This raises a further question. What about weapons currently in the inventory of automatic weapons manufacturers?

Mr. HATCH. Automatic weapons currently in the inventory of manufacturers, or in the inventory of a manufacturer or licensed dealer anytime before the date of enactment, would clearly be covered by the section 102(o)(2)(B) exemption. These weapons would be "lawfully possessed before the date this subsection takes effect" and thus would be eligible for further lawful transfers to purchasers or others who comply with the requirements of the 1934 act.

Mr. DOLE. What about weapons for which an application to manufacture has been filed before the date of enactment?

Mr. HATCH. These weapons would also be "grandfathered," meaning that they would be covered solely by the requirements of the NFA. Let me explain why: Under title 26, the definition of "machineguns," which is not altered by this amendment, includes "parts" of machineguns. Thus, once a

manufacturing permit has been issued, the manufacturing process is officially underway. This means that the machinegun or its parts are at that time in the lawful possession of the manufacturer. It would be impossible to trace whether a particular set of parts was sufficiently assembled to constitute a machinegun and since the parts constitute a machinegun anyway, it only makes sense to consider a manufacturing application as sufficient to grandfather the entire weapon.

In other words, the parts or partly manufactured weapon is defined as a machinegun and because the application to BATF would occur before the date of enactment, this would constitute lawful possession of the machinegun in accord with section 102 (o)(2)(B). The manufacturer then could lawfully transfer the automatic weapon under this second exemption.

Mr. DOLE. I thank the Senator. This was my understanding as well. Another question on this issue: Would applications to register the frame or receiver as a machinegun be treated any differently than you have just described?

Mr. HATCH. No; applications to register the frame or receiver should be treated just as I have described. They would be "grandfathered" for the reasons I have just stated.

Mr. DOLE. I can foresee another problem. Would these applications need to be approved by BATF prior to the date of enactment or would it be sufficient for them to be postmarked prior to the date of enactment?

Mr. HATCH. The language of this amendment does not address this point, but simple fairness would dictate that applications postmarked prior to the date of enactment should be completed and approved in accord with existing law. It would be unfair to deny some applications simply because they were mailed from farther away or were ensnarled in BATF processes and not yet finally approved.

Mr. DOLE. May I suggest that we move next to the first exemption of this new section 102 dealing with "transfer * * * or possession * * * under the authority of the United States * * * or a State. * * *" This is somewhat ambiguous language. I would like to ask my colleague a few questions. Let us start with the easy questions. Would this section affect domestic machinegun manufacturers and dealers with respect to sales for military or police use?

Mr. HATCH. Clearly not. In the case of the military, the manufacturer would be transferring to the United States or a department—in this case the Defense Department—the machinegun would be possessed by the United States, and these sales and other transactions would clearly take place under the authority of the United States. Transactions involving the military would fit under section 102(o)(2)(A) in at least these three senses.

The same is true of States and their departments with respect to transactions involving State or local police. Any local police would be specifically covered by the language in this provision permitting the transactions and possession to or by or under the authority of a subdivision of a State.

Mr. DOLE. Would a manufacturer or dealer be allowed to inventory or stockpile machineguns for sale to military or police organizations?

Mr. HATCH. The language of section 102 should also be read to permit a manufacturer to possess or inventory machineguns for sale to military or police. Automatic weapons in this category would be possessed with the intent to "transfer to * * * the United States or any department or agency thereof or a State * * *" and so forth. A manufacturer or dealer may possess machineguns if the purpose of such possession is for transfer in accord with this provision.

Mr. DOLE. That leads to the next question. Can a manufacturer transfer to duly licensed dealers for resale to domestic and qualified military and law enforcement forces in accord with this provision?

Mr. HATCH. Yes; on the same principle just mentioned, a manufacturer should be permitted to transfer to a dealer as long as the purpose of the transfer is to supply the military or police forces or to make other qualified sales and transfers "to the United States * * * a State * * *" and so forth. The critical test to ascertain whether possession or transfers will fall under the existing national act requirements rather than this new section 102 should be the intent to retransfer only as authorized by this exemption in section 102.

On the basis of this test, it would seem logical that manufacturers could also issue sales samples to dealers as long as the objective of this marketing device is sales or transfers for military or police purposes.

Mr. DOLE. This brings us to my next hypothetical example. What about a defense contractor authorized by the Government to make weapons systems?

Mr. HATCH. This section should not be read to restrict or prohibit sales to defense contractors authorized to make weapons systems. For instance, a machinegun may be sold by a manufacturer to a defense contractor for installation on a tank. In that case the transfer would be taking place under the authority of the United States because the defense contractor is authorized to make tanks for the military. It would be a transfer under the authority of the United States and with intent to transfer to the United States as specified by the language of this provision. This provision certainly was not intended to disrupt in the slightest the current processes for supply of weaponry to our military or police forces. This amendment was designed to deal with crime guns, not weapons used to fight crime on a domestic or international scale.

Mr. DOLE. That states very well my own reading of this provision. How does this provision affect sales of weaponry to foreign allies, foreign police forces, or other exports permitted by the Department of State?

Mr. HATCH. Once again, these should be considered transfers under the authority of the United States. The United States itself, through a department or agency thereof—the State Department—would be authorizing this transfer. It would fit within the terms of section 102(o)(2)(A). It simply is not the intent of this language to disrupt the U.S. weapons industry or sensitive foreign sales and international arms arrangements. Because the State Department would issue an export license, these transactions would occur under the authority of the United States. These sales might also be construed to be "transfers by the United States" under export license which would be a further allowance of this type of transaction under the language of this provision.

Mr. DOLE. This means possession or transfer of machineguns for export would fall within the exemption and not be affected by the prohibition of section 102. Is that correct?

Mr. HATCH. That is correct.

Mr. DOLE. Let me ask a related question. Would private researchers, such as Carbine Williams, Gerrand and Stoner—all of whom made significant contributions to the development of modern military arms—be prohibited from engaging in research and from manufacturing prototypes?

Mr. HATCH. Once again, this type of activity would appear to fall within the exemption of section 102(o)(2)(A) because the intent of this possession would be for military or law enforcement purposes.

Mr. DOLE. At this point, I would just like to tie down a few odds and ends. I have been very satisfied with the floor manager's answers to these questions. They confirm my own understanding of this provision, but I think it is very important to make this understanding public in advance of a final vote on S. 49. Many Senators have had these same questions. They should be pleased with the answers offered by the Senator from Utah. To make it clear, there are no changes in the statutory requirements for individuals wishing to purchase, possess, or transfer national act weapons. Is that correct?

Mr. HATCH. That is correct. That is the meaning of section 102(O)(2)(B).

Mr. DOLE. Are there any changes in the requirements for obtaining a dealer's license?

Mr. HATCH. No. None whatsoever.

Mr. DOLE. Can an amnesty period be declared administratively by the Secretary of Treasury under current law?

Mr. HATCH. Absolutely. Moreover it would be in the interest of law enforcement to do so in light of this provision in section 102.

Mr. DOLE. The language of this new section intends that a machinegun may be transferred under the authority of a State or a subdivision thereof. The House purposely did not choose to use the language "on behalf of" such an agency or subdivision, which is language contained in other provisions of current gun law. Could this be read to permit a State or local police force to authorize its officers to purchase for themselves a machinegun which they might use in the line of their law enforcement work but which would be owned by the officer, not the police force itself?

Mr. HATCH. The Senator makes a good point. Some police forces with financial difficulties have authorized their officers to purchase and register automatic weapons to prevent themselves from being outgunned if they should ever confront well-armed drug dealers or organized criminals. This language appears to encompass that practice. It seems to me, however, that under these circumstances regulations would be necessary to govern disposition of those weapons in the event the officer leaves the police force. In other words, possession or transfer of those weapons would cease to enjoy the authorization of the State agency or subdivision when the officer was no longer on the police force. The police force would then have to exercise its authority to guarantee that the machinegun was transferred to another entity authorized by the State or the United States to possess such weaponry.

Mr. DOLE. During the 1968 amendments, Congress specifically authorized the transfer of "unservicable firearms" without payment of the transfer tax under the National Act. Nonetheless the Treasury Department refused to recognize many "deewats," or nonfunctioning war trophies with a steel plug welded into the barrel, as "incapable of being readily restored to a firing condition." Would it be appropriate in the Senator's mind for Treasury to take a fresh look at these unservicable firearms to allow such war trophies to be deactivated and registered?

Mr. HATCH. It certainly would be appropriate. Moreover because these unserviceable firearms are not readily restorable to shooting condition and because they constitute a separate category from the live machineguns on which the transfer tax must be paid, these may not even be machineguns and may be eligible for registration at anytime with the Treasury Department in accordance with regulations that they may promulgate.

Mr. DOLE. I thank the Senator for his clear legal reading of this provision. On behalf of many of his colleagues who have asked me similar questions, I should like to commend him for taking the time and making the effort to understand and explain in understandable terms these complex provisions.

Mr. HATCH. I thank my colleague and restate my appreciation for all he has done to make S. 49 a reality.

Mr. DOLE. I thank the Senator.

Mr. METZENBAUM. Will the Senator from Utah yield for just one moment?

Mr. HATCH. I am delighted to yield.

Mr. METZENBAUM. Since we have been very sensitive about the language of the legislation and since we oftentimes know that colloquys in some instances provide interpretations that were not originally intended, will the Senator from Utah be good enough to tell us whether there is anything in that colloquy that would in any way change the language of either the McClure-Volkmer bill or the Thurmond—I think it is Thurmond-Metzenbaum-Kennedy bill, as I understand it?

Mr. HATCH. It does not change the language of the bill.

Mr. METZENBAUM. Will the Senator tell us what the colloquy is about?

Mr. HATCH. The colloquy is with regard to the question of machineguns.

Mr. METZENBAUM. Of what?

Mr. HATCH. With regard to the question of machine-guns.

Mr. METZENBAUM. Machine guns? And what does the colloquy indicate, if I may ask, since we are now——

Mr. HATCH. It is a rather lengthy colloquy.

Mr. METZENBAUM. I am a little bit concerned about that. I want to make it very clear for the RECORD that this colloquy is between yourself and whom?

Mr. HATCH. Senator DOLE, the majority leader.

Mr. METZENBAUM. I want to make it very clear that this is a colloquy between two of the proponents, and I do not believe that it should be interpreted as speaking for the rest of us in the Senate since the rest of the Senate has not had a chance to hear it. I see that my colleague from Massachusetts is running through it at the moment, but I just want to make clear in the RECORD that that colloquy is not to serve any purpose as to changing the intent or the purpose or any aspect whatsoever of the legislation.

Mr. McCLURE. Will the Senator yield?

Mr. METZENBAUM. I certainly yield.

Mr. HATCH. I would be happy to yield. I have the floor.

Mr. McCLURE. I appreciate the Senator yielding. The reason I intervene at this point is there is a colloquy between myself and the distinguished floor manager of the bill, Mr. HATCH, that deals also with the question of machinegun parts.

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I have a colloquy between myself and my distinguished junior colleague from Idaho [Mr. SYMMS] with respect to the same subject. I ask unanimous consent that it appear at this point in the RECORD.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, I want to make it as clear as I can that we have not been dealing with machineguns or machinegun parts. We have not been negotiating or discussing that subject.

Certainly, I am not in a position to say to any two Senators that they cannot have a colloquy on the floor of the Senate—orally, or written and submitted for the RECORD.

However, having said that, I want to emphasize as strongly as I can that that colloquy represents the views of two Members of the Senate in one instance and two other Members of the Senate in another, but is not intended to reflect the intentions of the sponsors or the opponents or anyone other than those two Senators.

Mr. HATCH. Mr. President, I have to say that the colloquys that have been put in the RECORD as of now do reflect the intentions of the sponsors of the bill. There is no question about it. We think that they state basically what the bill is. Moreover many other Senators have asked the questions covered by this colloquy. They endorse these statements and are anxious to have their understanding made part of this RECORD.

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

Mr. HATCH. I yield.

Mr. McCLURE. Mr. President, I know that the Senator from Ohio has interposed a reservation with respect to my request. I take this time only to say to the Senator from Ohio that this discussion is up at all because the other body injected some language at the very last minute, literally, of their debate, and there is no legislative history as to what that language means. There are a substantial number of House Members as well as other interested parties who have asked questions about what it means; and what we are trying to do is provide some legislative history as to our understanding of what the House provision means, since the House itself had no legislative history on that subject.

Mr. METZENBAUM. Mr. President, I yield to the Senator from Massachusetts in order that he may suggest——

Mr. HATCH. Mr. President, I have the floor, but I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will not object to the inclusion of the colloquy in the RECORD, so long as a colloquy can also be included in the RECORD between the Senator from Ohio and me related to the same subject matter.

Mr. HATCH. I have no objection.

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

SYMMS-MCCLURE COLLOQUY

Mr. SYMMS. Mr. President, will the author of the bill yield for a question?

Mr. McCLURE. I am delighted to yield.

Mr. SYMMS. A question has arisen recently regarding what constitutes being "engaged in the business," regarding a person functioning as an agent or a broker. An example of the kind of activity in question would be a manufacturer's representative who has traditionally functioned without a Federal firearms license because he is not a dealer. Specifically a broker or an agent has no inventory, and firearms never pass through his possession during a transaction. Brokers and agents such as manufacturer's representatives find customers and put them in contact with sellers, but are not engaged in the actual dealer transfer during which time the BATF form 4473 is filled out by the seller and the buyer. Does the definition of dealer and being engaged in the business in this bill make it clear that brokers and agents do not need Federal firearms licenses?

Mr. McCLURE. The definition of dealer says that one is involved in "the repetitive purchase and resale of firearms." Clearly, the actual sale is the one made by the dealer. If the firearms actually pass into the possession of a third party, then the form 4473 would have to be filled out by the seller and such a middleman. The middleman would then fill out the form 4473 with the ultimate buyer. But as long as an agent or a broker is acting on behalf of a seller without ever having possession, the agent or broker would clearly not be a dealer, and would not need to have a Federal firearms license, nor has the definition of dealer ever been interpreted to include those persons who have been involved in firearms sales or transactions but who have not at any time been in physical possession of the firearms such as agents, brokers or consultants.

METZENBAUM-KENNEDY COLLOQUY

Mr. METZENBAUM. Mr. President, I thank the Senator from Massachusetts [Mr. KENNEDY] for his suggestion that we comment on some of the points raised by our colleagues here on some implications of S. 49, especially as they relate to the machinegun amendments adopted by the House.

We have heard it said that there was little debate on this issue in the House and therefore little legislative history. But I believe my friend from Massachusetts [Mr. KENNEDY] has been in touch with the sponsors of the provisions on machineguns, as I have, and I would like to see what your understanding is on a number of issues which have been raised.

First, the House version, which we are about to vote on here, has a very important improvement from the bill the Senate adopted last July, and that is to ban the transfer, possession of any machinegun not lawfully possessed on the date of enactment.

It has been suggested here that a manufacturer in possession of parts of machineguns could register and, therefore, grandfather those parts under the provisions of this bill. Is this the Senator's understanding?

Mr. KENNEDY. No, it certainly is not. From my conversations with the House committee, and with law enforcement officials tonight, it is clear that they consider the operative notice is filed subsequent to manufacture. Therefore, such parts—regardless of their intended use—not yet assembled, do not constitute a machinegun under the National Firearms Act unless the specific parts qualify as a machinegun as defined by that act.

I have been told by BATF officials that examples of such parts would include conversion kits and combinations of parts from which a machinegun can be assembled. Machinegun parts, in most instances, do not require registration, are not machineguns, and would not be covered by the act.

Mr. METZENBAUM. I thank the Senator, for that is my understanding from my discussions earlier in the day with the police groups.

Another question has been over granting amnesty to people who now possess machineguns outside of the law. As the Senator knows, this was one of the proposals offered this afternoon as part of this compromise package, but it was rejected by us, and strongly by the law enforcement agencies.

Do you believe that an amnesty period can be administratively declared by the Secretary of the Treasury by the enactment of this bill?

Mr. KENNEDY. Yes, I am aware of the discussions earlier today on the question of amnesty, and I joined the Senator in rejecting any such proposal.

There is nothing in this bill that gives such an authority, and there is clearly no valid law enforcement goal to be achieved by such an open-ended amnesty.

The only thing that has changed about the machinegun situation since the 1968 act, and the limited amnesty granted then, is that machineguns have become a far more serious law enforcement problem.

So, I see no new legislative authority or law enforcement purpose that would be served by such an amnesty—and that is the strongly held view of all the law enforcement groups, including the Federal Law Enforcement Officers Association.

Mr. METZENBAUM. Finally, I would like to discuss with the Senator another provision of the House bill—which I know that he and I support—and that is the amendment which maintained existing law on the interstate sale of handguns.

I know that was an issue the Senator from Massachusetts raised time and time again during the Judiciary Committee's consideration of this legislation during the last two Congresses, and when we considered it here on the Senate floor last July. Although we couldn't get support for it here, at least the NRA was not able to roll the House of Representatives. They listened to the police groups and followed their plea to keep existing laws on the interstate sale of handguns.

Mr. KENNEDY. Mr. President, I appreciate the Senator's comments, and he is correct that the House action represented a fundamental step in keeping this bill from completely gutting the intent of the 1968 act.

The House version also accomplishes what I tried to do here in the Senate—and that is to draw a distinction between how we deal with handguns versus rifles and long guns. In 1983 I offered the basic compromise that I would be willing to go along with steps to ease controls on long guns and other sporting weapons, if we would only maintain, if not strengthen, controls on handguns.

I am gratified that the House version of the bill—which will be the bill that reaches the President's desk—rejects the NRA's attempt to weaken existing controls on handgun sales. It makes the distinction we repeatedly tried to make here, that there is a great difference between easing paperwork and other controls on sporting weapons, but absolutely no legitimate sporting purpose to ease them on handguns—especially the "snubbies" and "Saturday Night Specials" which have now legitimate sporting purpose.

Mr. METZENBAUM. Mr. President, I thank the Senator, and join in his comments.

Mr. HATCH. Mr. President, before I cast my vote in favor of this bill, I have a further question which concerns the definition of parts for a machinegun. The language of the bill is clear, but a member of my staff has pointed out that the description of this provision on the floor of the other body could cause it to be misinterpreted, with potentially serious conse-

quence to those who own semiautomatic firearms which contain machinegun parts, or those who own legally registered machineguns and possesses parts for use in repair or maintenance.

Section 109 of the bill adds to the present definition of a machinegun, which includes as a registerable item "any combination of parts designated and intended for use in converting a weapon into a machinegun." The new language of the bill adds: "any part designed and intended solely and exclusively * * * for use in converting a weapon into a machinegun."

Clearly the operative words are "for use in converting." The only reason I mention this is that the maker of the motion in the other body described it somewhat ambiguously as including "a 'part' that is intended solely and exclusively for a machinegun." That is not what the bill says, and it is of great importance to many law abiding citizens that it be interpreted exactly and so clearly and unambiguously written.

Those citizens who own and shoot legal machineguns have complied with the most rigorous firearms laws imaginable. They have obtained permission of the Federal Government, and have undergone a thorough background check that usually requires a waiting period of several months. They have paid a $200 transfer tax to the Federal Government and they have registered both themselves and their firearms with the Federal Government and often the State government. In short, they comply with a set of laws and regulations as restrictive as any gun law in the world.

It is virtually unheard of for such a law abiding citizen to use his or her machinegun in any kind of violent criminal offense, and it is my understanding that there is not a single instance on record of a legally possessed machinegun having been used in a predatory street crime.

Persons who legally own and shoot machineguns normally possess a maintenance kit containing replacement parts, for machineguns are notorious for breaking or wearing out certain critical parts. While such parts are obviously machinegun parts, they are not parts "designed and intended solely and exclusively * * * for use in converting a weapon into a machinegun," as described by the bill. Am I correct in my understanding?

Mr. McCLURE. The Senator is correct. There is no ambiguity in the bill. Certainly it is not this Senator's intention that possessors of legal machineguns should be required to pay an additional registration tax upon replacement parts, nor would that be the effect of the statute.

Mr. HATCH. In other words, the mere fact of possession of a single part designed for a machinegun would not require registration and payment of the transfer tax unless that single part would of itself be capable of converting a weapon to a machinegun?

Mr. McCLURE. The Senator is correct. Only if an individual possessed a single part or combination of parts with which conversion could be accomplished with the part or parts would part or parts be subject to the transfer tax. The transfer tax would not apply even then to a maintenance parts kit for a legally owned machinegun since no conversion would be involved.

Mr. HATCH. I thank the Senator for confirming my understanding.

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

Mr. HATCH. I yield.

Mr. McCLURE. Mr. President, make no mistake. I believe that the second amendment means exactly what it says. I believe that our forefathers intended for all honest citizens to be able to arm themselves. This is not a privilege meted out by the Government—it is a sovereign right, belonging to the people themselves.

I also believe that attempts to control violent crime by nibbling away at this right are doomed to fail.

The Gun Control Act of 1968 was more than a nibble—it was a big bite. This may come as a surprise to many, but I share the intention of Congress in passing that law. All of us want to wipe out violent crime. Unfortunately, the 1968 act did not achieve that goal. This is not surprising. Crime cannot be controlled by attacking an inanimate tool.

The Firearm Owners Protection Act is a complicated bill—it amends a complicated law. This is part of the problem. In an attempt to control the possession, transportation and sale of firearms, Congress and the enforcing agency developed a tangle of redtape. The end result has been the entrapment of otherwise honest people into violations that neither hurt anyone, nor contribute to violent crime. The aim of the Firearm Owners Protection Act is to redirect law enforcement toward the kind of transaction most likely to be a factor in violent firearms crime. In other words, we have to stop going after the guy who transposes a number in a zip code, and go after the dealer who is knowingly selling stolen guns, or knowingly selling to prohibited persons.

Briefly, the following are the main points of the bill.

Define "engaging in the business" to clarify when dealers, gunsmiths, makers of ammunition, and importers must have a license.

Permit out of State purchase of rifles and shotguns if the sale and possession are legal both in the State of purchase and in the purchaser's State of residence.

Mandate an element of criminal intention for prosecution and conviction of Federal firearms law violations.

Clarify procedures for dealer sales of firearms from his private collection.

Permit inspection of dealer's records for reasonable cause.

Require mandatory penalties for the use of a firearm during a Federal crime. Our colleagues in the House have added additional mandatory penalties for the use of a firearm in a drug trafficking crime, and for the use of a machinegun or a silencer in a violent Federal felony.

Limit seizure of firearms only to those specifically involved in a criminal transaction.

Provide for the return of seized firearms, and grant attorney's fees in spiteful or frivolous suits.

Allow the Secretary to grant relief from disability, and provide for judicial review of certain cases.

Remove requirement for affidavit for purchase of less than 50 pounds of black powder for sporting purposes.

Allow the interstate transportation of unloaded, inaccessible firearms.

Under present law, there is no legal way for a person to transport firearms through some States. For example, a hunter from South Carolina has no way of getting through the State of New York to go moose hunting in Maine. The Firearm Owners Protection Act would allow an individual to transport a firearm through the State if the firearm is unloaded and not easily accessible. The possession of the firearm must be legal both in the State of residence and in the State of final destination. Obviously, this right does not apply to individuals who are prohibited from owning firearms, or to stolen or otherwise illegal firearms. This right of transportation does not hinder a State from enacting laws concerning intrastate transportation.

It has been suggested that this transportation be limited to long guns. There is no point in imposing such a limitation. Each year thousands of law abiding citizens travel on interstate trips with firearms for hunting purposes, competitions, matches, moving residences, and personal protection upon arrival. There must be some way for law-abiding Americans to exercise their right to interstate travel with personally owned firearms. Criminals simply ignore the laws.

The Treasury Department touched on this issue in a June, 1984 letter to Senator HATCH:

> Limit preemption provision to long guns. Language in S. 49 would provide that persons transporting weapons unloaded and not readily accessible would be protected from restrictive local and State laws. The administration supports such a provision, since the transport of weapons to hunts, target matches and other legitimate activities are seldom involved in crime.

Section 104 of the McClure-Volkmer bill tightens the penalties for use of a firearm during and in relation to any crime of violence. Current law provides a mandatory minimum 5-year sentence for this type of activity. But the McClure-Volkmer bill goes further, prohibiting probation, parole, or concurrent sentencing for a criminal subject to the 5-year mandatory minimum sentence. The language of the bill does not apply to firearms owners whose possession of a firearm is unrelated to the commission of a crime of violence, because to do so would be to place a gratuitous penalty on gun ownership itself. But it does overturn the Simpson case, thereby allowing the imposition of the mandatory minimum penalty, even if the underlying crime itself contains enhanced penalties for the use of a firearm.

Mr. President, I can understand the desire to curb violent crime. I share that desire. Those who use firearms to rob and murder give the vast majority of honest, careful firearms owners a bad name. We need to see that criminals are punished for their crimes. We need to clarify existing law to ensure the punishment of the real villains. The Firearm Owners Protection Act would do that.

Mr. DOLE. Mr. President, after 7 long years of debate and deliberation, Congress is finally completing action on S. 49, the Firearms Owners Protection Act. Last summer, the Senate debated and passed this important legislation—this was the first time it had been considered by the full Senate since its original introduction in 1979. And as a long time supporter and cosponsor of the bill, I was pleased to be in a position to facilitate it being brought up and passed.

The Firearms Owners Protection Act would correct various abuses which have occurred under the Gun Control Act of 1968. The 1968 law was passed during an emotional period, when the Nation was reacting to two political assassinations. The national judgment at that time was to take away rights enjoyed by many in order to prevent a recurrence of the outrageous abuses of a few. Each year's experience under the law brought with it new evidence that Congress had gone too far. Hunters, Sportsmen, hobbyists, and collectors were being prosecuted for technical violations, diverting limited law enforcement resources from the pursuit of those guilty of truly criminal firearms use.

S. 49 is the culmination of 7 years of painstaking debate and analysis over the deficiencies in the 1968 law and how they can be best corrected. I believe the legislation represents a good effort to balance the rights of law abiding gun owners with the needs of law enforcement. Some law enforcement groups have raised additional concerns about the bill which were not at issue during the Senate's consideration of the bill last summer. I am glad that Senators McCLURE and METZENBAUM, with the help and support of Senators THURMOND and HATCH, have been able to agree on a package of technical amendments which are designed to allay these concerns. Over the years, a number of refinements have been made to S. 49 in response to law enforcement concerns, consistent with the intent of the proponents not to undermine the 1968 act's provisions as they apply to criminal firearms use.

Mr. President, it has been suggested by some that this legislation has been steam rolled through the Congress with PAC contributions and political strong arm tactics. The fact of the matter is, bills do not pass by a margin of 79-15 in the Senate and 292-130 in the House without a strong base of popular support and strong arguments on the merits. The Firearms Owners Protection Act passed by such overwhelming margins because of its vast base of active constituent support.

In concluding, let me pay tribute to the Members of the Senate who have worked so long and hard on this bill to finally bring us to the point where we are today. Credit should go to JIM McCLURE, the bill's principal sponsor and a tireless advocate for gun owners' rights. Credit should also go to Senator HATCH for his many excellent contributions to this legislation as the bill's chief proponent in the Senate Judiciary Committee and as the floor manager. Senator THURMOND should also be commended for his strong leadership as chairman of the Judiciary Committee on this issue.

I would also like to mention a number of staff members who have done an outstanding job on this bill: Randy Rader, with Senator HATCH; Mike Hammond with the steering committee; Nancy Norrell with Senator McCLURE; and Terry Wooten and Diana Waterman with Senator THURMOND. On the Democratic side, I believe mention should also be made of Eddie Correia with Senator METZENBAUM; Jerry Tinker, with Senator KENNEDY; and Scott Green, with Senator BIDEN.

Mr. MOYNIHAN. Mr. President, I rise today to oppose the House message on S. 49, the Firearms Owners Protection Act, which would undermine significantly the Nation's ability to keep firearms out of the hands of criminals, and contribute to the dangers that members of the law enforcement community face every day in patrolling our streets and protecting us from violent crime.

I am also pleased to cosponsor legislation introduced today by the distinguished chairman of the Judiciary Committee, Senator THURMOND, to address several problems created by S. 49 as modified and passed by the House. Senator THURMOND's legislation is also cosponsored by the Senator from Ohio [Mr. METZENBAUM], the Senator from Massachusetts [Senator KENNEDY], and the Senator from Delaware [Mr. BIDEN].

S. 49 as amended by the House of Representatives contains several provisions that would pose particularly grave dangers to law enforcement officers around the country. For example, this legislation would exempt the transport of firearms in interstate commerce from any State or local laws that might otherwise make such transport illegal, thereby overriding States' rights to regulate gun carrying across their borders, and allowing criminals the opportunity to transport their weapons across State lines with impunity.

Another particularly disturbing provision restricts unannounced Federal inspections of gun dealers to one per year. Under current law, Federal inspectors are permitted an unlimited number of surprise inspections of gun dealerships, ensuring that the law is obeyed.

An internal memorandum prepared by the Bureau of Alcohol, Tobacco, and Firearms [BATF] provides hard evidence of the effectiveness and desirability of maintaining the current arrangement, noting that:

> (a) The prohibition against unannounced inspections would enable unscrupulous licensees to conceal violations of the law; (b) limiting compliance inspections to a single, annual inspection would have the same result and would be too infrequent to ensure compliance . . ."

I am also concerned about a provision in the bill that would allow gun dealers to transfer guns from their business inventories to their personal collections, and later sell these guns without keeping records. The same BATF memorandum notes that this provision:

> Would enable unscrupulous licensees to easily (sic) circumvent the recordkeeping requirements. Moreover, it would hamper law enforcement's ability to trace firearms and, hence, solve crimes . . ."

Clearly, this is a sufficiently compelling reason to object to this provision.

As amended by the House, S. 49 defines a gun dealer according to whether the individual sells firearms as a regular course of trade or business with the principal objective of livelihood or profit through repetitive purchase and resale of firearms.

According to the BATF, this language would allow an individual to procure and distribute weapons without keeping records of their distribution as long as the distribution was not profit-motivated. Thus, individuals who supplied terrorist groups—in other words, persons possibly motivated by ideology, not profit—would be excluded from the provision.

The problems posed by the legislation are clear. And so is the evidence why we must continue to make it difficult for criminals to obtain firearms while protecting the right of law-abiding individuals to bear arms. According to the Bureau of Justice Statistics, in 1984 handguns were used in 44 percent of all homicides. And, since 1980, on the average over 20,000 people are killed annually by firearms in the United States. These figures include 10,000 handgun murders, 1,200 accidental handgun deaths, and 10,000 suicides.

The figures for law enforcement officers are even more troubling. According to the FBI's preliminary statistics, in 1985 there were 79 police officers killed in the line of duty. Handguns were used in 70 of these murders; shotguns were used in 9; rifles, 3.

With this sort of slaughter of innocent and courageous Americans under our present gun laws it is not surprising that the Nation's 12 major law enforcement organizations have joined to oppose the measure before us. These groups include: the Federal Law Enforcement Officers Association, the Fraternal Order of Police, the International Association of Chiefs of Police, the International Brotherhood of Police Officers, the Major Cities Police Chiefs, the National Association of Police Organizations, the National Organization of Black Law Enforcement Executives, the National Sheriffs' Association, the National Troopers' Coalition, the Police Executive Research Forum, the Police Foundation, and the Police Management Association.

I know these organizations quite well. Indeed, since 1982 I have worked closely with many of them to enact a ban on the manufacture, sale, and importation of armor-piercing ammunition, legislation I first introduced in the 97th Congress, but that the Senate did not act favorably upon until this March, when it passed this measure by a vote of 97 to 1.

The legislation introduced by the distinguished chairman of the Judiciary Committee, Senator THURMOND, addresses three of our concerns. First, it would permit persons who lawfully possess and carry firearms to transport their firearms as long as they are unloaded, and neither the firearms nor any ammunition is accessible from the passenger compartment of the vehicle.

Second, this legislation would redefine the term "engaged in business" so that an individual who purchases and disposes of firearms for criminal or terrorist purposes would be covered under the provisions of S. 49 as passed by the House.

Finally, this measure would require gun dealers who sell guns from their personal collections to register their firearms in a bound volume, and include vital information, thereby preserving the integrity of the BATF's ability to trace illegal firearms.

I am pleased that the distinguished Senator from South Carolina [Mr. THURMOND] has introduced this legislation today. For the American people and for the law enforcement community, it is a piece of good news on a day when the Senate is considering a bill that would bring further violence to our streets.

● Mr. LAUTENBERG. Mr. President, I would like to take a moment to explain my position on the House-passed version of S. 49, the Firearms Owners Protection Act, and the Thurmond bill containing three amendments to S. 49. I oppose S. 49 and support the Thurmond bill.

Last summer, when S. 49 was before the Senate, I voted against final passage. I believed that the Senate version of the bill went too far in easing restriction on the sale of guns that have been in place since 1968. The availability of handguns must be restricted in our violence prone society. Too many people are killed each year through the use of handguns. S. 49 did nothing to curb that tide.

I weighed my concerns about the availability of handguns with the legitimate interests of sportsmen and hunters, who are troubled by unnecessary restrictions and regulations on the purchase of rifles and shotguns. The use of long guns for hunting and sporting purposes has a valid place in our society.

The House-passed version improves on the Senate bill in some respects. It retains the restriction on the interstate sale of handguns, although it permits such sale of rifles and shotguns under certain circumstances. It bars future sales and possession of machineguns by private citizens. But, the House version also contains provisions which are opposed by many leading law enforcement organizations. On balance, S. 49 remains a bill which will make it difficult for law enforcement agencies to respond to the use of handguns in violent crimes.

The amendments included in the Thurmond bill will redress some, but not all, of the deficiencies in S. 49. I particularly am pleased that the provisions dealing with the interstate transportation of guns is strengthened by the new bill. I support the package of amendments.

Mr. President, the adverse effect on law enforcement that will be caused by passage of S. 49 is very disturbing to me. I think it is important for Federal legislation to work toward the goal of preventing crime and facilitating the swift punishment of criminals. The bill before us today does not advance either goal. For these reasons, I must oppose S. 49. I do, however, support the Thurmond bill and hope that it can quickly pass both the Senate and House of Representatives.

● Mr. DURENBERGER. Mr. President, I am voting in favor of the Federal Firearms Owners Protection Act as passed by the House of Representatives on April 10, 1986. Although it is not perfect, the House version of S. 49 contains necessary, long overdue changes to Gun Control Act of 1968.

Through procedural reforms, this bill will advance a more even balance between the constitutional rights of law-abiding citizens, and the legitimate law enforcement practices of the Bureau of Alcohol, Tobacco, and Firearms [BATF] and individual States. It will protect the rights of dealers by specifically defining a manufacturer and his activities and by relaxing Federal regulations with regard to innocent errors in recordkeeping. Finally, S. 49 will enhance the freedom of the many sportsmen who enjoy traveling to Minnesota for recreational purposes by allowing them to transport unloaded, inaccessible long guns across State lines and by allowing the interstate purchase of long guns.

Despite my concern over two of the amendments adopted in the other body—one to ban the interstate sale of handguns—I urge my colleagues to pass S. 49 as it appears before us today. Congress had debated the matter at length. The bill has passed both Chambers by an overwhelming majority. And, I believe that further amendments to the legislation will only serve to jeopardize its enactment.

I am pleased that my colleagues, the distinguished Senator from Kansas [Mr. DOLE] and the distinguished Senator from Utah [Mr. HATCH] have clarified a very important issue surrounding the amendment to ban the future sale and possession of machineguns. I do not believe that this amendment is intended to disrupt the exportation of American manufactured machineguns. Rather, it is intended to regulate the ownership and use of machineguns within the United States.

Without a statement of clarification, however, those U.S. companies which currently purchase machine guns from licensed manufacturers for exportation would be severely harmed. The Bureau of Alcohol, Tobacco and Firearms when drafting implementing regulations must allow for the continuation of export sales which are licensed by the Office of Munitions Control in the Department of State. These transactions fall under the statutory authority of the Arms Export Control Act, and I do not believe that Congress should expand the jurisdiction of S. 49 into an area that is already sufficiently regulated by the Arms Export Control Act.

Mr. President, the Federal Firearms Owners Protection Act is necessary and long overdue. S. 49 will protect the rights of law-abiding citizens, strengthen penalties for those who

violate the law, and ensure fair, efficient enforcement of the 1968 Gun Control Act. As an original cosponsor, I would like to thank my distinguished colleague from Idaho [Mr. McCLURE] for his years of hard work and his dedication to the passage of this legislation.

I also rise today in support of the legislation offered by the distinguished chairman of the Judiciary Committee (Mr. THURMOND). S. 2414 makes important technical corrections to S. 49. These corrections are noncontroversial and will enhance the law enforcement efforts of those who risk their lives for our protection every day.●

Mr. MATHIAS. Mr. President, the issue of gun control involves strong, often conflicting interests that need to be considered and weighed carefully. On the one hand, I can well understand many of our citizens' concerns for self-defense at a time of unacceptably high crime rates, as well as the need to protect the legitimate rights of sportsmen. At the same time, I am aware of the obvious need for protection against the lawless use of easily obtainable and concealable handguns that all too often are used in the commission of violent crimes.

For the past 25 years, I have tried to help shape a coherent, fair, and effective Federal policy in this sensitive area to advance the effort to curb violent crime, without imposing unduly burdensome and bureaucratic procedures on law-abiding Americans.

The bill before the Senate today is not identical to the one passed by this body last summer. The House has made several improvements in the original Senate bill. It has deleted the provision included in the Senate package that would have permitted the interstate sale of pistols. The House also adopted a provision, similar to an amendment I offered when this legislation was before the Senate, to permit compliance inspections of gun dealers without advanced warning. However, despite these improvements, the bill remains flawed. S. 49 would unnecessarily tilt the balance against local law enforcement officials and local crime prevention efforts.

This legislation could create serious problems for local law enforcement personnel, thus increasing the hazards of an already too hazardous profession. At the same time, this bill offers very little benefit to the sportsman and no benefit whatever to the citizen who possesses a gun for personal defense in the home.

Since I was first elected to Congress, I have consistently opposed legislation to require the registration of firearms owners, or to ban the possession of handguns by law abiding citizens. I shall continue to oppose such proposals. But the major thrust of this bill is to make it easier for dealers to sell guns to nonresidents and to make it more difficult to bring the law to bear against dealers who violate it. These goals have no place in Federal firearms policy.

S. 49 does not, as some would assert, pit the sportsman or other lawful gun owners against those who would ban guns. It pits those few who are willing to sell guns for profit to anyone with the money to purchase, against law enforcement officers and agencies who are concerned with the safety of their own officers and the general public.

I would like to commend the distinguished chairman of the Judiciary Committee, Mr. THURMOND and the distinguished Senator from Ohio, Mr. METZENBAUM and other Members on both sides of the aisle for working to bring about some needed improvements in this legislation. As a result of negotiations among these and other Members, as well as representatives of the interest groups most concerned with this issue, the Senate will consider another bill today on this subject. S. 2414 introduced by Senator THURMOND, embodies three important amendments that were proposed to S. 49. These amendments limit the loopholes created by S. 49 with respect to the interstate transportation of weapons and sales from personal collections, and clarify the requirements imposed on gun dealers. Taken together these amendments significantly limit the difficulties that will be experienced by law-enforcement officers when S. 49 becomes law. I fully support S. 2414 and commend the Senator from South Carolina for introducing it. I hope the House of Representatives will give this legislation prompt and favorable consideration. Even though I remain opposed to the passage of S. 49, and would vote no on that bill if there were a rollcall vote, I commend my colleagues for their efforts to address the concerns of the law enforcement community by passage of the Thurmond bill.

Mr. HATCH. Mr. President, at this point, I would like to express my deep appreciation for those Senators and staff who have contributed so much to this historic achievement. I have already commended the majority leader, but I would be remiss to overlook the enormous contribution made by Sheila Bair of his staff. She has made the difference on numerous occasions. I have commended Senator McCLURE, but wish to not overlook Nancy Norell and Mike Hammond. Mike brought many legal skills and Nancy brought studied dedication to this effort.

Senator THURMOND, chairman of the Judiciary Committee, was as always an unparalleled leader in this effort. Diana Waterman and Terry Wooten deserve credit for their contributions to today's climactic negotiations.

On the other side of the aisle, I commend Senators METZENBAUM and KENNEDY whose untiring advocacy and diligence made this bill possible. On Senator METZENBAUM's staff, I would like to commend the efforts of Eddie Correia whose legal talents helped achieve our agreement. Jerry Tinker with Senator KENNEDY has dealt with this bill for over 6 years and deserves extraordinary commendation for his contribution.

In conclusion, I thank my own chief counsel, Randall Rader. I deeply appreciate the legal skill he brings to this and every other issue on our crowded judiciary agenda. Besides his lawyerly skills, I am grateful for his friendship and am grateful for his years of dedication to this and other issues.

Mr. ABDNOR. Mr. President, I rise in strong support of the Firearm Owners Protection Act, S. 49. It is indeed a memorable day when we can see final passage of this legislation that does so much to restore the rights of law-abiding citizens in their ownership and use of firearms for lawful purposes. It has not been an easy task as it has required more than 8 years of effort for those who have been committed to secure passage of the legislation. We must all be grateful for the great leadership of our good friends and colleagues, the senior Senator from Idaho, whose name is indelibly associated with the measure, the Senator from Utah, who stood fast in support of the legislation, and the chairman of the Judiciary Committee, who so capably held the package together.

It has been a long road but one most important for us to have been traveling on. We share the same desire to see enactment of this legislation that will guard the constitutional freedoms of honest American gunowners, and redirect Federal firearms law enforcement toward the type of criminal activity that is most likely to lead to violent firearms crime.

Mr. HATCH. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I thank everybody concerned.

Mr. KENNEDY. Mr. President, I want the RECORD to show my vote in favor of the Thurmond proposal, but opposed to S. 49.

Mr. METZENBAUM. The same with respect to the Senator from Ohio.

AMENDMENTS TO TITLE 18, U.S. CODE—INSTERSTATE TRANSPORTATION OF FIREARMS

Mr. THURMOND. Mr. President, I send a bill to the desk and ask that it be reported.

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

The legislative clerk read as follows:

A bill (S. 2414) to amend Title 18, United States Code.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to take this opportunity to thank the able majority leader for his outstanding leadership with respect to this legislation and for his fine cooperation and patience in helping to work out this important matter. I believe his efforts have enabled us to avoid several days of debate that would have been consumed otherwise. I also thank his staff member, Shelia Bair, for her work.

I also thank the able Senator from Idaho [Mr. McCLURE], one of the authors of the original gun control bill, and his staff member, Mr. Mike Hammond, for their cooperation in this matter.

I express my appreciation to Senator HATCH and his staff member, Randy Rader, for the work they did in this matter.

We have all been working in the Office of the President pro tempore for several hours. It is wonderful that we could come forward here with legislation in this matter.

I want to add the able Senator from Delaware [Mr. BIDEN] as a cosponsor of the bill I just sent to the desk.

The PRESIDING OFFICER. Without objection, so ordered.

Mr. THURMOND. Mr. President, there are others I wish to thank for their assistance. I want to commend the able Senator from Ohio [Mr. METZENBAUM] for his fine interest in this matter and all he has done to help bring it to a conclusion. I also thank Eddie Correia, his staff member, who assisted in this matter.

I also thank Terry Wooten and Diana Waterman of my staff.

I also want to commend the able Senator from West Virginia [Mr. BYRD] for his help in this matter.

Mr. President, this is one of the most pleasant moments I have had since I have been in the Senate. We worked on this bill for several hours. We have an agreement to pass S. 49, a bill on gun control which has come from the House, sponsored by Senator McCLURE and Representative VOLKMER.

We also have an agreement with respect to the bill I have just sent to the desk, with certain important amendments, that has taken several hours of time of the players earlier mentioned. We are very pleased that it has been worked out. The discussions have been had on the floor as to the representations on both sides of the issue. We feel now that this legislation can be disposed of in a proper way which will take care of all those interested in gun control matters and will take care of law enforcement. I think this bill has come to very fine fruition.

I now ask unanimous consent that the bill be brought up for consideration.

Mr. METZENBAUM. Mr. President, I have no objection to the unanimous-consent request.

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

Mr. METZENBAUM. Mr. President, earlier today it appeared that there would be a confrontation in connection with this measure, and the confrontation also rolled over into a matter that the distinguished Senator from California and I have been attempting to bring to the floor, having to do with the Saudi Arabia arms sale. We discussed the subject with the majority leader. He understood the problem and gave us adequate time in order to negotiate, which we have been doing all afternoon.

I do not think those negotiations would have resulted in the conclusion they did, had it not been for the fact that the President pro tempore of the Senate made it quite clear from the inception that he was intent upon bringing about a compromise and bringing the issue to the floor and having it resolved. I think that he and his staff and the staff of the Senator from Utah and the staff of the Senator from Idaho did superb work in the negotiations, which took about 5 hours.

However, I cannot sit down without expressing appreciation to my own staff member, Eddie Correia, who just last week was in the hospital and left the hospital to be here with us this week. I know this has been a very grueling and difficult task for him in his recuperative period, but I do not think there would have been an agreement if he had not been in those negotiations, and I want to publicly tell him how much I appreciate what he has done. I thank all the other staff members as well.

Mr. KENNEDY. Mr. President, I, too, want to commend the distinguished chairman of the Judiciary Committee [Mr. THURMOND], for working with Senator METZENBAUM and me and, most importantly, the police groups, in reaching this compromise.

I am delighted to join in cosponsoring this bill and hope the House will move expeditiously to enact it, so these technical, but strengthening amendments to S. 49 will also be signed into law.

Finally, Mr. President, I would just like to note that in the compromise reached on the interstate transportation provisions of the bill, it is the clear intent of the Senate that State and local laws governing the transportation of firearms are only affected if—first, an individual is transporting a firearm that is not directly accessible from the passenger compartment of a vehicle. That means it cannot be in the glove compartment, under the seat, or otherwise within reach. The only exception to this is when a vehicle does not have a trunk or other compartment separate from the passenger area. The weapon must be contained in a locked container other than the glove compartment or console.

Second, any ammunition being transported must be similarly secured.

In addition, Mr. President, the Senate language makes it clear that a State or locality's right to regulate the carrying of firearms by its residents is not affected in any way by the provisions of this bill.

Again, I thank the Senator.

Mr. DOLE. Mr. President, I wish to extend my appreciation to all Senators who have been working the last 2 or 3 days on this matter, particularly the distinguished chairman of the Judiciary Committee, who proposed the amendments early on today as a way to end this impasse, and that has been accomplished.

We are going to complete action very quickly on the bill, when things looked rather bleak as recently as 4 or 5 hours ago.

I want to thank all Senators: The distinguished author of this legislation, Senator McCLURE; the floor manager, Senator HATCH; and their staffs.

I also thank Sheila Bair of my staff for her tireless efforts, not just today and yesterday, but the last several months.

The distinguished chairman of the Judiciary Committee has pointed out that it has been a cooperative effort among those who opposed and those who supported the legislation. Once there was a determination made that we would work together, it really did not take that much time.

So, my thanks to the distinguished Senator from Ohio [Mr. METZENBAUM], the distinguished Senator from Massachusetts [Mr. KENNEDY], and the distinguished minority leader, Senator BYRD, who has been tolerant as we were trying to work out all these problems. I also thank the Senator from California [Mr. CRANSTON], who, while he had an interest in this matter, had an overriding interest in a matter we will dispose of this evening, the Saudi arms sale.

□ 1750

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 the third time, and passed, as follows:

S. 2414

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

Strike out section 926 A of title 18, United States Code, and insert in lieu thereof the following new section:

"§ 926A. Interstate transportation of firearms

"Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearms if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle, provided that in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console.

Section 921(a)(22) of Title 18, United States Code, is amended by inserting before the period at the end thereof the following:

", Provided that proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. For purposes of this paragraph, 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 kidnapping;"

Section 923(c) of title 18, United States Code, is amended by adding before the period at the end thereof the following: ", except that any licensed manufacturer, importer, or dealer who has maintained a firearm as part of a personal collection for one year and who sells or otherwise disposes of such firearm shall record the description of the firearm in a bound volume, containing the name and place of residence and date of birth of the transferee if the transferee is an individual, or the identity and principal and local places of business of the transferee if the transferee is a corporation or other business entity provided that no other recordkeeping shall be required."

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

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

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

HONORING THE STEGER INTERNATIONAL POLAR EXPLORATION

Mr. DURENBERGER. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 396) honoring the Steger International Polar Exploration.

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

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

Mr. DURENBERGER. Mr. President, at the request of the leadership who have been very kind to give us special consideration for this resolution, particularly those who are waiting to handle the Saudi arms sale, I express my special gratitude to the leadership on both sides, Senator CRANSTON and Senator LUGAR.

Will Steger is a 40-year-old Minnesotan whom I have known for approximately 25 years. Along with some of his friends, particularly Paul Schurke of Minnesota and Ann Bancroft of the State of Minnesota, they just completed the first totally unassisted journey to the North Pole that has been accomplished by man or woman.

This resolution, Mr. President, celebrates the achievement of a handful of very special Americans. I feel particularly grateful that by some coincidence I suppose the Chair today is occupied by my colleague from Utah, who in a very special way for very special reasons is unique among us in his own achievements.

Mr. President, on Friday, May 2, I received official confirmation that the Steger International Polar Expedition reached their destination—the North Pole.

This was an exciting, bold, and historic expedition. Seventy-five years have passed since the last American-based dogsled expedition journeyed toward the pole. That one, Admiral Robert Peary's historic 1909 expedition, claimed a prize that had eluded the grasp of explorers for three centuries, and brought to a close the era of polar expeditions attempted solely by men and dogs—without the benefit of such modern technology as airplanes or radios.

The Steger Expedition revived that historic mode of polar travel—the dogsled—and in their quest for the pole utilized traditional navigational equipment such as sextants and chronometers, carrying only emergency radios. The goal of the Steger Expedition was to go one step further than the 1909 Peary Expedition, and that was to reach the pole without outside support? In accomplishing this the expedition tested the travel methods of Cook and Peary and sought to lay to rest two lingering historical questions. First, can the North Pole be reached without outside support? Second, were the efforts of the early explorers to reach the pole without the benefit of modern technology realistic?

In reaching the pole on May 2, the Steger Expedition accomplished this and much more. It is no small feat to cross the arctic ice to the North Pole on skis and by dogsled. Yet with sheer determination the members of the expedition conquered all the obstacles nature threw in their path.

Their success is the result of teamwork, and I would like to take a moment to give special notice to Ann Bancroft—the first woman to the North Pole. Ann's successful participation will be an inspiration and encouragement to many generations of women to come.

It is with great pride that I congratulate the Steger Expedition and celebrate with them their historical accomplishment.

Mr. President, I move the adoption of the resolution.

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

The resolution (S. Res. 396) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 396

Whereas, the Steger International Polar Expedition, headed by Will Steger of Ely, Minnesota; including Minnesotans Paul Schurke, Ann Bancroft, and Jim Gasperini as well as Geoff Carroll of Alaska, Robert Mantell of Vermont, Robert McKerrow of New Zealand, and Canadians Richard Weber and Brent Boddy reached the North Pole on May 2;

Whereas, the Steger International Polar Expedition reached the North Pole by skis and dog sled, becoming the first Polar dogsled expedition since Admiral Peary in 1909 and the first expedition in history to reach the Pole without outside support, proving that the elements can be conquered through human power and perseverance;

Whereas, in conquering the white unknown of the Arctic, the Steger International Polar Expedition embodied the rugged individualism and courage that enabled our forefathers to defy danger and death to explore and settle our frontiers;

Whereas, Ann Bancroft became the first woman ever to reach the North Pole, pro-

viding inspiration and encouragement to many generations of women to come.

Whereas, the Steger International Polar Expedition began with a dream and garnered the support of all the people of Minnesota and the Nation;

Therefore be it *resolved*, it is the Sense of the Senate that the Steger International Polar Expedition be commended as the first unsupported dogsled expedition to reach the North Pole, for sending the first woman to the Pole and for proving that with faith, hope and perseverance we can conquer any obstacle.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DURENBERGER. I thank my colleagues.

Mr. President, I appreciate the leadership and assistance of the majority leader and the minority leader in passing this resolution today.

SHIPMENT TO POLAND OF DRIED MILK

Mr. SIMON. Mr. President, I ask unanimous consent to bring up the resolution offered yesterday that was kept on the table. It is Senate Resolution 394.

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

The assistant legislative clerk read as follows:

A resolution (S. Res. 394) expressing the sense of the Senate regarding the shipment to Poland of dried milk to replace milk contaminated as a result of the nuclear disaster in the Soviet Union.

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

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

Mr. SIMON. Mr. President, this is simply an offer on the part of our Government to be of assistance to the people of Poland.

My distinguished colleague from North Carolina who chairs the Agriculture Committee has a couple of suggestions for amendments that I think are perfectly sound.

I yield to my colleague.

□ 1800

(Mr. GRAMM assumed the chair.)

Mr. HELMS. Mr. President, I thank the distinguished Senator. I believe all Senators support the use of some of our dairy surplus to help the people of Poland—and I stress those words, the people of Poland—in the aftermath of the recent Soviet nuclear disaster. Other Senators will have to speak for themselves, but I do not favor doing anything for the Government of Poland.

I do have a couple of concerns which I have discussed with the distinguished Senator from Illinois [Mr. SIMON]. In a moment, I will offer two amendments which he may wish to accept as modifications. That will be up to him.

For the record, Mr. President, the USDA already has authority to donate surplus dairy products to Poland under section 416 of the Agricultural Act of 1949. I understand that since 1958, Poland has fallen under the "friendly country" designation necessary for such donations.

In fact, Mr. President, the Reagan administration is already utilizing these authorities to provide assistance to the people of Poland. For fiscal years 1984 and 1985, our Government donated a total of 4,740 tons of surplus dairy products to the Polish people. For the current fiscal year, the administration is aiming to donate a total of 2,000 tons of surplus dairy products.

Americans can be proud of our record of providing assistance to the Polish people—a people who are subjected to an oppressive government which has trampled on their freedoms and stamped out opportunity.

The fact that our Government is already providing humanitarian assistance to the people of Poland should be duly noted in the preamble to this resolution.

In addition, the resolution as introduced calls for the donations to be made to the Government of Poland. However, we have avoided making section 416 donations in the past to the Government. Instead, we have utilized private relief organizations such as Catholic Relief Services and World Vision to deliver our assistance to the Polish people.

Mr. President, with the Polish Government being controlled by the Kremlin, I question whether food donated to the Government would be distributed fairly, and without regard to domestic political concerns.

In order to assure that our food does get to the Polish people, and is distributed without regard to the political agenda of the Government, we should utilize private organizations. In fact, the Solidarity movement would have been an appropriate and efficient means of delivering this assistance—had the movement not been outlawed, and forced to go underground.

In light of these concerns, Mr. President, I am offering two amendments to this resolution. The first would delete the reference to providing surplus dried milk to the Government of Poland, and instead call for shipments of surplus dried milk "for distribution to the people of Poland through appropriate private, nonprofit voluntary agencies." The second amendment would amend the preamble to the resolution to acknowledge our Government's recent and current humanitarian assistance to the people of Poland.

These amendments would strengthen the resolution, and I believe, help facilitate the donation of surplus dairy products to Poland during this time of need. I urge the sponsors of the resolution to accept these revisions.

Mr. President, I will offer two modifications which I believe the Senator from Illinois will accept. The first addresses the preamble. I would suggest that he amend the last paragraph of the preamble to read as follows:

Whereas the Administration has provided humanitarian assistance, in the form of surplus dairy products, to the people of Poland and is planning to continue to provide such assistance during the current fiscal year.

The second modification which I would suggest is on page 2, beginning on line 4, strike out the words "to the Government of Poland" and insert in lieu thereof "for distribution to the people of Poland through appropriate private, nonprofit voluntary agencies."

I inquire of my friend from Illinois if he would be willing to accept these modifications.

Mr. SIMON. Mr. President, I am pleased to accept the amendments offered by the Senator from North Carolina.

I am going to take just 1 extra minute to explain to my colleagues something a little unusual that happened to me today. I have explained it to the Senator from North Carolina.

I introduced this resolution yesterday because of the need of the people of Poland. We had checked Friday with the Polish Embassy and they seemed to be very enthusiastic about the idea.

This afternoon, the Charge d'Affaires from Poland came into my office—they do not have an ambassador here right now—and said that the intent of my resolution was to embarrass the Government of Poland and to embarrass the Government of the Soviet Union.

Well, that is not my intent. He said what they want is normal trade relations with the United States. I assured him that we can get normal trade relations as soon as they free their political prisoners in Poland.

But, clearly, we want to help the people of Poland, not the Government of Poland. That is what the Senator from North Carolina wants to do. That is what all of us want to do. So I am pleased to accept the amendment of the Senator from North Carolina and I hope we can adopt the resolution.

AMENDMENT NO. 1824

(Purpose: To specify that the surplus dried milk should be distributed to the people of Poland through private nonprofit voluntary agencies)

Mr. HELMS. Mr. President, I send the amendments or modifications, whichever, to the desk.

The PRESIDING OFFICER. The clerk will report the amendment to the resolution.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1824.

On page 2, beginning on line 4, strike out "to the Government of Poland" and insert in lieu thereof "for distribution to the people of Poland through appropriate private, nonprofit voluntary agencies".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment (No. 1824) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. HELMS. Mr. President, I ask that the next amendment be stated.

The PRESIDING OFFICER. Until the resolution is passed, the amendment to the preamble is not in order.

Mr. HELMS. The Chair is absolutely correct.

The PRESIDING OFFICER. The question now recurs on the resolution.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, if I may briefly be heard to say that I congratulate my friend and distinguished colleague from Illinois in connection with this resolution. I am delighted to be a principal cosponsor of the resolution.

I thank the chairman of the Agriculture Committee. I have talked to him on several occasions today about what could be done to facilitate this, as well as Senator ZORINSKY, our ranking member on this side.

I thank the majority leader and minority leader for their support of this resolution. I am delighted to support this resolution that will aid the people of Poland in connection with their needs in this very difficult time when such an important crisis faces the people of that country. I certainly support this resolution and urge the Senate to adopt it immediately.

OPEN OUR DOORS OF PLENTY TO THE POLISH PEOPLE

Mr. DOLE. Mr. President, I am pleased to be a cosponsor of Senate Resolution 394, a timely piece of legislation designed to help bring a desperately needed safe supply of milk to the people of Poland.

As the world now knows—no thanks to Soviet candor—there has been a disaster at the Chernobyl nuclear powerplant. Unfortunately the Soviet Union's neighbors have become innocent victims of this nuclear nightmare. An ominous cloud of radioactive fallout has spread from Chernobyl over Eastern Europe, the terrible effects of which may not be known for many years. What we do know, however, is that our friends in Poland need our help and they need it now.

That is why this bill is so vital. It will open our doors of plenty to millions of people who no longer can trust the very milk they drink. We have massive stocks of dried milk ready for delivery and we should not hesitate to come to the aid of the good people of Poland. Already, existing supplies of milk in this Iron Curtain country have been taken off the shelves due to radiation from the Soviet catastrophe.

Mr. President, we hold no brief for the oppressive Government of Poland. But we do feel a kinship for the beleaguered Polish people who now find themselves confronted by contaminated food. It is a sad picture, indeed. Let us move quickly to share our bounty with those who need it most.

Mr. SIMON. Mr. President, I wish to thank my colleague, who is an original cosponsor, as well as Senators DOLE and BYRD.

I ask unanimous consent that Senators LEVIN, PROXMIRE, HART, METZENBAUM, BENTSEN, and PELL be added as cosponsors.

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

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, just for the record, the distinguished Senator from Illinois [Mr. DIXON] was on the phone the first thing this morning calling me about this. As he has indicated, he has talked to me several times, so he has been very, very diligent as a member of the Senate Agriculture Committee in pursuing this. It is my pleasure to work with both Senators from Illinois in connection with this legislation.

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

The resolution (S. Res. 394) was agreed to.

AMENDMENT NO. 1825

(Purpose: To amend the preamble)

The PRESIDING OFFICER. The clerk will report the amendment to the preamble.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1825.

Amend the last paragraph of the preamble to read as follows:

"Whereas the Administration has provided humanitarian assistance, in the form of surplus dairy products, to the people of Poland and is planning to continue to provide such assistance during the current fiscal year:".

The PRESIDING OFFICER. The question is on agreeing to the amendment to the preamble.

The amendment (No. 1825) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the preamble, as amended.

The preamble was agreed to.

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

S. RES. 394

Whereas the nuclear disaster beginning on April 26, 1986, at Chernobyl, Union of Soviet Socialist Republics, is an international tragedy;

Whereas the accident already has resulted in loss of life and injury to those in the immediate area;

Whereas the Chernobyl accident could result in serious longterm environmental and medical problems;

Whereas the governments in neighboring countries have experienced elevated radiation levels in their environment, and their people face continued uncertainty about the possible health risks that may be associated with this contamination;

Whereas some of these neighboring governments are taking health and safety precautions on behalf of their citizens;

Whereas the Government of Poland already has removed all milk from its stores and will withhold milk from the market until the danger of radiation exposure recedes;

Whereas the people of the United States are deeply concerned about European citizens who might be facing health risks from the accident at Chernobyl;

Whereas the United States Government owns vast quantities of dried milk;

Whereas the American people have a long and enduring feeling of kinship and friendship with the Polish people; and

Whereas the Administration has provided humanitarian assistance, in the form of surplus dairy products, to the people of Poland and is planning to continue to provide such assistance during the current fiscal year: Now, therefore, be it

Resolved, That (a) the Senate calls upon the President and the Secretary of Agriculture to immediately authorize the shipment of United States surplus dried milk, under section 416 of the Agriculture Act of 1949 (7 U.S.C. 1431), for distribution to the people of Poland through appropriate private, nonprofit organizations. Such shipments should not exceed 50,000 tons during the coming six months.

(b) The Senate requests the President to assure the milk producing allies of the United States that the delivery of such milk will not undermine existing sales contracts with the Government of Poland inasmuch as such milk will replace milk produced in Poland but destroyed as a safety precaution against possible adverse reaction to the consumption of contaminated milk.

(c) The Secretary of the Senate shall transmit a copy of this resolution to the President and the Secretary of Agriculture.

Mr. BYRD. Will the majority leader yield for a question?

Mr. DOLE. Yes.

Mr. BYRD. Has the motion to reconsider the motion on the resolution been made?

The PRESIDING OFFICER. It has been.

Mr. BYRD. It has been.

PROHIBITING SALE OF CERTAIN DEFENSE ARTICLES TO SAUDI ARABIA

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate now turn to Calendar Order No. 633, Senate Joint Resolution, 316, the Saudi arms sale, and that there be a time period of 1½ hours, equally divided, on Senate Joint Resolution 316.

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

The clerk will report.

The assistant legisltive clerk read as follows:

A joint resolution (S.J. Res. 316) prohibiting the sale to Saudi Arabia of certain defense articles and related defense services.

The Senate proceeded to consider the joint resolution.

Mr. BYRD. Mr. President, I believe, under the statute, the majority and minority leaders have control of the time, or their designees. I yield my time on this side to the distinguished ranking member of the Foreign Relations Committee, Mr. PELL.

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

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

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I yield my time to the distinguished chairman of the Senate Foreign Relations Committee, Senator LUGAR.

Mr. PELL. Mr. President, as ranking Democratic member of the Committee on Foreign Relations, I had the opportunity to weigh carefully the administration's proposal to sell more than 2,500 missiles to Saudi Arabia. I concluded that the sales proposal was not justified. Accordingly, I urge that the Senate approve the resolution of disapproval introduced by the Senator from California [Mr. CRANSTON] for himself and more than 60 cosponsors.

The Committee on Foreign Relations held a hearing on this sale on April 17 and discussed the sale at length on April 23. At the conclusion of that deliberation, the committee voted 11-6 to approve the resolution of disapproval.

I concur completely in the judgment of a strong majority of the committee members. I reach my conclusion for two primary reasons:

First, the Saudis do not have a demonstrated need for those missiles. They already have more than an adequate reserve of Sidewinder, Harpoon, and Stinger missiles. In the event of some unforeseen emergency in which it is in our interest to do so, the President would be free to act on an emergency basis. They simply are not needed.

Second, the Saudis have been, at best, only sometime partners in the peace process. While there have been contributions, these positive gestures have been offset by such activities as a major financial support of elements of the Palestine Liberation Organization and the continued shabby treatment of Egypt since that nation made peace with Israel.

Mr. President, I would like to draw the attention of my fellow Senators to a very pertinent section of the committee's report on the sale:

It is imperative that we as a nation pursue peace in the Middle East with renewed energy and that we insist that others in the Middle East who profess a commitment to bringing an end to conflict in that region do so with deeds, as well as private assurances. It is crucial that those who will take brave steps for peace not be left to stand alone.

In this context, the proper question is not whether an Arab state is radical or 'moderate', but whether it is a nation which foments or supports conflict and terrorism, or whether it is a nation which actively presses for an end to conflict and a just and lasting peace.

Mr. President, by those standards, it is clear that the Saudis have fallen shy of the mark. Accordingly, it is regrettable that the administration decided to press ahead with this sale with very little consultation with the Congress. The result is an unnecessary and unfortunate confrontation.

It has become standard executive-branch practice in recent years, under strong Pentagon prodding, to whet the Saudis' appetite for advanced arms and then to inform Congress that those arms the Saudis have been convinced to seek must be provided lest a relationship be jeopardized. Last year, when Congress became visibly fed up, the administration backed off a bit, and the Saudis turned to the British for aircraft. Unfortunately, too many will draw the conclusion that this episode demonstrates that either we sell or others will.

Mr. President, I know that rejection of this sale will displease the Saudis. But I believe our basic underlying relationship will endure. I fault the administration for paying so little attention to Congress and its views before pressing ahead with this sales proposal.

In closing, I would hope that the Saudis will take steps to join the United States in giving active support to those in the Middle East willing to work with Israel in bringing about a comprehensive peace. If the Saudis will do that, I think they will find us very supportive when they make requests consistent with their legitimate defense needs.

□ 1810

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I oppose Senate Joint Resolution 316, the resolution of disapproval prohibiting the sale of three types of missiles to the Kingdom of Saudi Arabia. In my judgment, the sale should be approved because it will help the United States retain viable relationships with friendly, pro-Western states in the region without adversely affecting military balance in the Arab-Israeli conflict. Our refusal to approve this sale would distance us from those regimes whose support we need to help resolve problems of mutual concern in the Middle East.

The proposed sale before us today is, in my view, one which should not be as controversial as it has become. It is a modest sale which adds no new capabilities to the Saudi Armed Forces. It represents a substantial scaling down of what the Saudis indicate they need and the requirements the Department of Defense believes are necessary to meet threats against them. Moreover, the Government of Israel and the American-Israeli Political Action Committee [AIPAC] have not openly opposed this sale. I do not want to minimize the importance of the sale but rather point out that we risk serious and possibly long lasting injury to our foreign policy interests in the Middle East if we deny a friendly pro-Western regime the basic tools it needs to defend itself. Ultimately, the damage could be more political than military, as friendly states question our reliability in addressing the multiple security problems in the area. Denial of this sale will also encourage our adversaries to take advantage of fractures in traditional U.S. relationships in the Middle East.

If the overriding basis for judging whether to go forward with this sale is the extent to which it will advance our foreign policy interests, then let me offer some important reasons for opposing this resolution of disapproval.

It is absolutely essential to our regional policy that we maintain viable relationships with friendly states in the Middle East. If we fail to do so, we risk not only losing whatever leverage we now have, but we also run the risk of weakening Israel's security as well. There is no country more concerned with Israel's security than the United States. Other countries which could easily provide the same types of missiles will not protect Israel's interests to the extent we can and will. Israel's interests are a lower priority for them. There are other countries which are potential suppliers of these arms. If the Saudis are turned down on this request, they will go elsewhere as they did when they purchased the Tornado

aircraft. The results of that sale are already a net reduction in Israel's security and denial of this sale would add a further cost to Israel in terms of its security.

Despite the frustrations we all feel about the slow progress toward Middle East peace, there have been positive changes in recent years in the relations between Israel and the Arab States. When compared to previous decades, these changes have been major ones. Instead of turning our back, we should nurture, encourage and facilitate these changes. We cannot do this by disengaging from the region or blocking a military sale which breaks no new ground.

Over the past several years, we have seen the Israeli-Egyptian Peace Treaty, the Sinai accord, and several conflict settlements in Lebanon involving Israel and Arab States. We have also seen sincere attempts by King Hussein to initiate peace negotiations with Israel. The King was able to do this in part because of Saudi assistance payments to Jordan. Earlier, King Fahd authored a peace plan for the region. The Saudis have been helpful in Lebanon. They have pushed for a settlement in the Iran-Iraq war. They have provided assistance to the Afghan freedom fighters and to Morocco whom we also assist. We should prod the Saudis at every opportunity to play an even more active and positive role. But, we cannot expect them to respond to our requests if they believe we have disengaged from their security concerns. We must also remember that even our close allies do not always agree with us on all issues.

Our paramount goals in the Middle East are to further our national security interests. Advancing the peace process, containing the Iraq-Iran war, limiting Soviet influence in the area and maintaining access to energy supplies are all ways of advancing our interests. Our military assistance can further these interests by helping friendly states protect themselves against external aggression. For 30 years, our security assistance and arms sales programs have been a primary instrument for achieving these objectives. They have helped to develop the trust and confidence among regional states in our actions and intentions. Because of our success, the Soviets have played only a peripheral role in the region. Therefore, we should not unilaterally forsake what has been a successful foreign policy vehicle. I am not sure how we would accomplish the same security and foreign policy goals absent credible military relationships in the area.

Although this sale is primarily proposed for security and political purposes, we cannot ignore the economic benefits to the United States. The proposed missile sale is a direct cash sale, involving no U.S. financing, credits, or subsidies. It would bring capital directly into the U.S. economy. We will lose up to $20 billion in U.S. revenues over the life of the Saudi Tornado purchase because we opted out that aircraft sale to Saudi Arabia. Because of our refusal to provide arms, the Saudis have moved to purchase more of their arms from European suppliers. The sales contracts, therefore, will go to our allies—they will obtain the revenues, the jobs and, more importantly, the right to exercise influence over Saudi deployment, over Saudi force structure and military modernization programs. Disapproval of this missile sale will result in the loss of more than $354 million in revenues to the United States. Together, these two cases would cost the United States hundreds of thousands of man-year jobs throughout our economy. The economic loss could be even greater as there could be spillover into civilian purchases from the region as well.

□ 1820

This sale, coming 5 years after the last major arms agreement to Saudi Arabia, is a concrete demonstration to moderate and radical states that the U.S. connection can make a difference. It will send a signal to Tehran that we are serious about assisting the Saudis and other pro-Western Arab states and that we are ready to honor our commitments to their security. This is particularly important as the Iran-Iraq war now appears to have shifted in favor of Iran—at least for the moment—and poses a more serious threat to Saudi Arabia and other reginal states. Finally, it will signal that, in the aftermath of the Libyan defensive strike, we will make the distinction between radical and friendly moderate Arab states. This distinction will be blurred if we fail to respond favorably to this sale and to other legitimate requests in the region.

Some will argue that we would be doing the Saudis a favor by selling them these missiles for their cash and that this would be interpreted as a reward for their current attitude toward terrorism or Middle East peace. This sale should not be viewed as a favor or reward to the Saudis. Rather, it is a sale based on the calculation of our best interests in the area. Providing these missiles is not a signal of approval to the Saudis, it is a way of maintaining our intermediary role in Middle East politics.

Our refusal to sell these weapons would be a diplomatic blow which would isolate us from those states in the area who play a role in resolving regional problems. We would be driving the Saudis, and probably other friendly Arab States, to purchase more military equipment from the Europeans, or even the Soviets, a decision they clearly do not want to make but may feel compelled to make as we isolate ourselves through our own volition, from the problem of the region. It would be an invitation to the Soviet Union to play a more active role in the area. This would not be in anyone's interests—ours, the Saudis or the Israelis. We are convinced that our refusal to provide these missiles would exacerbate the problems of the region by playing into the hands of terrorists and by driving a wedge between us and Arab States.

In sum, this sale may not provide all the security the Saudis need to deter Iran in the Persian Gulf, but refusal on our part to approve the sale will have enormous symbolic significance and lasting adverse effects on our interests—as well as those of the Saudis and the Israelis.

Mr. President, the distinguished Assistant Secretary of State, Mr. Richard W. Murphy, came before the Foreign Relations Committee on April 17, 1986. Mr. Murphy outlined eloquently our interests in the region and I have attempted to reiterate these same concerns in the opening statement today.

Let me summarize some of Secretary Murphy's important testimony, because it is so critical to the foreign policy of our country.

We have been engaged in a dialog with moderate Arab States now for the better part of 40 years.

I want to emphasize before the Senate today, that we are in real danger, through our own choices, of working our way out of any effective role in the Middle East.

We have had a very good conversation on this same subject this afternoon with the distinguished Minister of Defense of Israel, Yitzhak Rabin. He is a good friend of many Members of this body. Many of us have had the pleasure of visiting with him during his tenure as Prime Minister of Israel as well as in his current role of Defense Minister.

Mr. Rabin made the point that Israel does not favor the sale of arms to any state which is not at peace with Israel and that does not recognize Israel's borders.

We all understand that policy. When pressed, Mr. Rabin said:

> I will not get into details on particular weapons or countries or the ways in which Senators want to probe this situation. We simply have a policy. We are opposed to the sale or arms to a country that has not made peace with us, that has not recognized our borders.

I think we understand that.

I think we also understand, Mr. President, in this particular sale, that the request by the Saudis was an extraordinarily modest one. The request from the President of the United States, from our Secretary of State, and from many officials of the administration, including Mr. Murphy, whose testimony I have mentioned, is that this is a very important moment

in our political relationships with moderate states in the Middle East. This is a modest sale and represents a small incremental increase in terms of the weapons they have already agreed to buy but will not be delivered for years to come.

Some Senators have asked, if that is the case, how can the sale be effective in terms of Saudi defense now? The question is a valid one. As Secretary Murphy and others have stated, the specific missiles, in fact, will replace the missiles the Saudis already have, and that it amounts to a small incremental increase over the missiles the Saudis already have in stock. But the sale comes, Mr. President, at a time when, for various reasons, United States effectiveness in the Middle East has declined.

That is unfortunate, Mr. President, because we are in a position in which we have, in the recent defensive strike against the Libyan targets, demonstrated our intent to make certain nations know that terrorism has consequences. The Libyans have called the Arab states together. They have asked that the Arab states take certain actions against us. For various reasons, the Arab states have not responded to such a call.

They have assisted in isolating Libya, as have our own allies. In the recent summit conference, their position is demonstrated by the final communique.

□ 1830

If we look, Mr. President, at the present situation where, over the last decade, we will find that the reason people have paid some attention to us as an intermediary in the region is that we had the ear of moderate states in the Arab world, in addition to a strong alliance with Israel. Good relations with both sides are important if peace is to come in the region.

Let me say, Mr. President, that it is important to affirm, as each one of us will, the strong feeling we have for Israel and for our alliance with the State of Israel. That is not in dispute. What some of us will argue today is that Israel's situation is enhanced if the United States of America is still an active negotiator, an active mediator, an active player in the region. It is vital for us that we remain a strong ally of Israel.

There is no doubt about our willingness to assist Israel in maintaining its democracy. But it has been Israeli foreign policy to try to make peace, and this country has facilitated this objective in a very real way. President Carter played a key role at Camp David and many Members of this body celebrated when the peace treaty between Israel and Egypt was signed in front of the White House.

That did not happen by chance. It happened because we were involved in the Middle East. We were a factor; we were a player; we had credibility. We tried very hard, Mr. President, to facilitate peace between Jordan and Israel and to broaden the peace process, including the help of others, such as President Mubarak in Egypt. It included from time to time, our friend, King Hassan of Morocco, and others whose help we have sought to bring peace to that region.

There have been times, Mr. President, when there are persons in this body who have been concerned about oil shipments from the Middle East, the security of those shipments and the security of countries that were producing oil.

You will recall, Mr. President, many discussions we have had in our various committees and on the floor of the Senate about the need for U.S. preparedness in the region and for our ability to be physically present in the area. We have asked our allies in NATO to help and they have often been reluctant to do so. We have pressed the issue strongly on their behalf in terms of the economies of the Western world. These are good reasons why many Senators felt we ought to be engaged in the region and why we still ought to be there.

The question before us today comes down to this: are we going to unilaterally destroy our influence in the Middle East? Mr. President, the effect of this resolution of disapproval—that we cannot make the sale—is that the Saudis will have to go elsewhere. Let there be no doubt about that, Mr. President. We are not talking about a charitable gift today. We are not talking about concessions or subsidies to the Saudis. We are talking about a cash sale to a moderate Arab State with whom we want friendly relationships and with whom we believe we have a strong role to play.

This can be especially true when our military personnel who are there to help train and instruct the Saudis on ways a professional armed force ought to be run. There are many benefits in that presence, Mr. President.

Let me add this further thought. If we were discussing almost any other issue, and talking about the best interests of our country, Senators would rise on the floor and talk about the need for U.S. exports. They would talk about the balance of trade. They would talk about how this country is in great trouble, about $150 billion of deficit. They would talk about jobs. It's amazing that the subject of jobs disappears from this entire argument today. It's amazing that the balance of payments issue is cast away as if it were incidental.

Mr. President, it is not incidental. Mr. Murphy testified before the Foreign Relations Committee that the Tornado aircraft sale to the Saudis will cost the United States $20 billion in balance of payments revenues and all the thousands of jobs associated with that. That is a lot of money and that is a lot of jobs. I think this should be an important consideration today.

I must conclude by saying that Senators who vote for this motion of disapproval are voting against jobs, voting for a large balance-of-payments deficit, and they ought to know what they are doing. They will be called to responsibility about American jobs and about protecting American industry. This is an important aspect of this sale in my judgment.

Finally, Mr. President, let me say that this is a sale which the President of the United States feels is vital to our foreign policy—vital to our foreign policy. He has written to members of our Committee; he has made it known to the leadership in the Congress. The Secretary of State has made known his views to individual Members on how vital the President of the United States believes this sale is to the conduct of our foreign policy. Normally, Mr. President, that would have some weight in our decision of this sale. In my judgement, it should have a lot of weight.

Senators who vote for this motion of disapproval are voting in a headlong plunge in opposition to the President of the United States, in opposition to the Secretary of State, and to everybody vested in the administration with responsibility for our foreign policy.

This is a crucial issue for the President of the United States; so crucial, Mr. President, that he has indicated if the motion of disapproval passes the two Houses, he will veto it. He will veto a resolution of disapproval, and the question will return to this floor or to our sister body for another debate. At that time we will have before us the veto message of the President of the United States, who will indicate once again that he believes this sale is vital to our foreign policy for the resasons that I have suggested today.

This sale is important if we are to have any credibility as a player in the Middle East and if we are to maintain the intermediary role that has allowed us to achieve some very substantial successes in the region. Maintaining our credibility is, more over, an important step on behalf of the security of Israel. Without our role as a player with some degree of credibility in the Arab states, peace may be impossible. That would present us and the region with a very bleak road ahead.

For these reasons, Mr. President, I ask Senators to carefully consider their votes on this resolution of disapproval.

So that it will not be a complex situation for any Senator to understand, those who are in favor of the sale of these missiles to Saudi Arabia should

vote "nay" when we have the rollcall. Those who are in favor of the resolution of disapproval, who would deny this sale and would oppose the President of the United States, our Secretary of State, and our foreign policy, who would disengage us from the Middle East peace process, who would be in favor of job losses and export sales losses—those persons favoring those propositions will vote "aye," and I hope, take the responsibility for consequences which I predict will be substantial, which will be relatively immediate, and which I pray will not be lasting.

Mr. President, I yield the floor.

Mr. RUDMAN, Mr. DIXON, and Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Who yields time?

Mr. PELL. Mr. President, I believe the time is allocated to me.

Mr. RUDMAN. I am sorry, Mr. President. I thought I was recognized.

Mr. PELL. I intend to cede first to the Senator from Illinois [Mr. DIXON], then to the Senator from California. Actually, I should ask the Senator from California to speak now as the true architect of the whole resolution, but he has asked me to recognize the Senator from Illinois.

Mr. RUDMAN. It is my understanding that the rules of the Senate are that those seeking recognition may seek it on their own——

The PRESIDING OFFICER. The Senator should be advised that we are operating under a time limitation, with the time controlled by the Senator from Indiana and the Senator from Rhode Island.

Mr. RUDMAN. I understand that.

The PRESIDING OFFICER. Therefore, one can speak only if recognized as part of their time.

Mr. RUDMAN. I then ask the Senator from Rhode Island if, at the appropriate time, I may be yielded 5 minutes.

Mr. PELL. Mr. President, I yield at this point 3 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I thank the distinguished Senator from Rhode Island for yielding me 3 minutes.

NO SALE, MR. PRESIDENT!

Mr. DIXON. Mr. President, I rise as an original cosponsor of this resolution of disapproval. As my colleagues know, this proposed sale has been a long time coming. However, now, after over a year, the administration has decided to proceed with the sale of Sidewinder, Stinger, and Harpoon missiles to Saudi Arabia. It is not, in my opinion, a wise course of action. It is my hope that the Congress will resoundingly overrule this course of action.

There has been a great deal of publicity about this sale, and whether or not it is in Israel's best interests. More importantly, it is not in the best interests of the United States or the entire Middle East region.

Although Saudi Arabia is perceived as a moderate Arab nation, there are very disturbing facts which lead me to believe that this sale is very ill-advised and that such a perception is inaccurate.

First, the administration maintains that this sale is necessary because of the escalation of the Iran-Iraq war. According to the administration, however, the sale is not scheduled for delivery until 1989 and would stretch to 1991. So, clearly, there is no emergency. Given the nature of the region, it would seem unwise to make such a long-term commitment to a nation which has repeatedly scorned both American and Israeli interests.

Second, a major part of the package consists of 200 portable Stinger ground-to-air missiles. This weapon would not enhance the Saudis' defenses against Iran, whose real threat to Saudi Arabia is terrorism and subversion. Further, in the hands of terrorists, this weapon could have disastrous consequences. It can be carried by one person and has enough destructive capability to obliterate civilian aircraft—an action which is all too possible in these times of international turmoil and tragedy.

Third, the Saudis have repeatedly acted against the interests of the United States in their support of Libya by condemning American efforts to constrain the outlaw agenda of Qadhafi and his cohorts in brutality. Saudi Arabia has publicly stated its allegiance to these international criminals, in direct opposition to American policy and interests.

Fourth, the Saudis continue to serve as a major contributor the the Palestine Liberation Organization. Last year alone, they provided Yasser Arafat and his followers with $28.5 million so that they could continue carrying out their agenda of terror and destruction long after other Arab States have abandoned financial support of these extremists.

Fifth, Saudi Arabia does not live up to its agreements and the administration apparently ignores this. The 1981 agreement to sell AWACS to them was based upon several conditions, one being that a peaceful resolution of disputes in the region was to have been successfully completed or significant progress toward that goal was to have been accomplished with substantial assistance from Saudi Arabia. This commitment was made by the Saudis to President Reagan nearly 5 years ago, and none of it has come to pass.

The situation in the region is, if possible, more unstable than ever, and there has been no positive action by the Saudis to bring peace to the area. In fact, the Saudis continue to lead the Arab boycott against Israel. They are seeking to gain additional allies in Africa to confront Israel. They continue to reinforce the isolation of Israel at every opportunity.

For these and many other reasons, this sale is not in the best interest of any nation which advocates peace in the Middle East and deplores terrorism against innocent civilians. Saudi Arabia is in a declared state of war with Israel. This sale would give her additional weapons which could be used against our closest ally in the Middle East. America has already sold more military equipment and services to Saudi Arabia than any other single country in the world. Our sales to the Saudi exceed $50 billion, including $20 billion remaining to be delivered. Total sales to all of our European allies amounted to just $50 billion.

What should we be getting from Saudi Arabia in return? If the administration's decision to go ahead with this sale, after postponing it for over a year, is based on a real military and strategic threat to our interests, now is the time to exact more cooperation from Saudi Arabia.

The Saudi defenses are strong, and the immediate need, other than "sending a message to Iran" does not seem to this Senator to be sufficient. Instead, we should send another message, which is that the United States should not provide additional arms to Saudi Arabia, a declared enemy of our closest ally in the Middle East, Israel, and a declared supporter of Qadhafi and Arafat, both of whom have perpetrated atrocious acts of violence against the United States and many innocent civilians traveling abroad.

Before we consider sending additional implements of war to Saudi Arabia, we need to elicit from them a commitment to work for peace with Israel, as well as their concurrence with policies which are in the best interests of responsible people everywhere.

□ 1840

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I yield the remainder of my time to the Senator from California for use at his own discretion.

Mr. CRANSTON. I believe that the Senator from Maryland would like time yielded on that side of the aisle at this point.

Mr. LUGAR. I thank the Senator.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I yield 4 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The distinguished Senator from Maryland is yielded 4 minutes.

Mr. MATHIAS. Mr. President, I oppose this resolution to disapprove

the administration's proposed arms sale to Saudi Arabia. I believe that such action will have a negative effect on United States interests in the Middle East, will move us away from a country with whom we have worked over two decades, and will diminish our influence in an area were it is sorely needed to bring about the kind of peaceful, comprehensive settlement we all desire.

Listening to the debate over these last months from proponents and opponents of the sale, I have been struck by how much the arguments hinge on cause and effect. United States goals in the Middle East are not questioned. We all want to assure the security of Israel, achieve a comprehensive peace settlement for Israel and her Arab neighbors, maintain good relations with all states of the area, ensure oil supplies to the West, and deny expanded Soviet influence. The question is how to achieve these goals. What action should the United States take that will have the effect of advancing us toward our objectives?

I believe that the effect of denying the sale will be a signal that we are less interested in maintaining our traditional ties with moderate Arabs and that we are less interested in pursuing the peace process. I think it will diminish our influence in the Middle East. Many, and perhaps it is the majority in the Senate, believe that the effect of denying the sale will be to make Saudi Arabia more amenable to working with us. I could say my experience in the Middle East leads me to the opposite conclusion, but to tell you the truth it is my experience with human nature that leads me to the opposite conclusion.

This proposed sale of three types of missiles, already in the Saudi Arabian inventory, will not change the balance of power toward Israel. It will not add to the aggressive capability of Saudi Arabia. It will be a signal to be read in Tripoli and Tehran. Some of the sale's opponents argue that the sale will diminish our credibility as we work to draw Saudi Arabia into the peace process. I say just the opposite is true. The continuation of our ongoing arms relationship is essential if Saudi Arabia is to count on us as we pursue our long-term objective of a peace settlement. Maintaining our ongoing arms relationship, I believe, will be a sign that we intend to stand by our traditional friends in a renewed quest for peace in the Middle East.

There are those who will cast a doubt on the value of that friendship. For them I would point to the recent experience of the American raid on Libya. In the aftermath of that event, Colonel Qadhafi issued a call for action by the Arab League, an immediate meeting of the members of the Arab League. The response was a resounding silence.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MATHIAS. I ask for 1 additional minute, Mr. President, if the Senator from Indiana will so yield.

Mr. LUGAR. One more minute.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 1 additional minute.

Mr. MATHIAS. Colonel Qadhafi issued a call for action by OPEC. The response was resounding silence. Colonel Qadhafi called for financial support. Not a single Arab dollar moved in the money markets of the world.

It does not require a career diplomat or a foreign policy analyst to assess the impact of these movements. I believe very strongly that the proposed sale of arms to Saudi Arabia is in our interest, in the interest of the United States, that its effect will be positive, and that should be our criteria for judging the sale.

I urge Senators to join in supporting it.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I yield 5 minutes to the distinguished Senator from New Hampshire.

Mr. RUDMAN. I thank the distinguished Senator from California.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 5 minutes.

□ 1850

Mr. RUDMAN. Mr. President, I rise today in opposition to the proposed arms transfer to Saudi Arabia. I do so after thorough consideration of all aspects of the sale, and with due regard for the complexities of Middle East politics and the often painful choices which attend U.S. policy decisions in the region. Accordingly, nothing less is required in the present case than a sober account of inescapable realities and the exercise of prudential judgment.

If diplomacy can aptly be characterized as the "art of the possible," then it is equally certain that the terms used in diplomatic discourse may often obscure truths which, if officially conceded, could impede the attainment of political goals. Few examples better illustrate this verity than the language employed by the administration to describe the United States-Saudi relationship. Indeed, and despite the unsettling paradox which often separates rhetoric from reality, I fear that diplomatic niceities, as opposed to strategic imperatives, have become a sufficient basis for policy.

United States military assistance to Riyadh, including the transfer of some of our most sophisticated weapons systems, has been predicated on the notion that Saudi Arabia is a moderate Arab State with interests essentially paralleling our own in the Middle East. Foremost among these are the preservation of regional stability and the isolation of radical elements, a just resolution of the Arab-Israeli conflict, and achievement of a durable peace settlement. It is once again being argued that continuation of Saudi policies helpful to the United States can best be ensured through tangible "signals" of American military support, as well as deference to Saudi sensitivities when attitudes diverge.

To be sure, there is something curiously troubling about a relationship which requires recurrent and unilateral "litmus tests" of friendship and benevolent intent. It would appear to me that a relationship of supposedly mutual interests should properly embrace reciprocal policies, or at least a commitment to avoid jeopardizing "shared" objectives. To do otherwise is to rely on the hope of supportive efforts, and not on the expectation.

Yet even a cursory review of Saudi behavior, official United States pronouncements notwithstanding, belies the moderate image so carefully and persistently cultivated by Riyadh's apologists at the State Department. Consider, Mr. President, the following points:

No issue has more completely dominated the administration's recent agenda, including at the Tokyo summit conference, than that of international terrorism and the most effective means of countering it. Saudi Arabia provided approximately $29 million last year to the PLO in support of its political and paramilitary activities. Is it unfair to assume that, however indirectly, these funds helped finance terrorist acts against innocent civilians as part of the larger Middle East power struggle?

Saudi Arabia has likewise proffered continued financial and political support to Syria and Libya, nations whose regional designs hardly coincide with United States, and ostensibly Saudi, interests. Does such support, evinced most recently by Riyadh's condemnation—I repeat, condemnation—of the United States air strike against Libyan military and terrorist-related targets, befit a "moderate" state opposed to Arab extremism?

Despite administration claims that the Saudis have quietly advanced the aims of the tortuous Camp David peace process, Riyadh has yet to reestablish diplomatic relations with Egypt. Is it the product of constructive policy to abet the isolation of the only Arab nation to have formally concluded a peace agreement with Israel?

How helpful have the Saudis been in encouraging Jordan's King Hussein to undertake those initiatives which might substantially contribute to a broader regional coalition for peace?

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In the United Nations, the Saudis have conspicuously voted with those states most violently opposed to United States interests in the Middle East.

Mr. President, I could cite additional examples, but I believe the available evidence is sufficiently instructive. Past United States military assistance to Saudi Arabia has unfortunately failed to evoke the response upon which the offer of such aid was premised. In the present situation, it is alleged that the transfer of Stinger, Sidewinder, and Harpoon missiles has become an urgent priority because of the imminent threat to Saudi sovereignty posed by the intensified conflict between Iran and Iraq. I would remind my colleagues that such missiles, if approved, would not be delivered until 1989-90, hardly of a timely nature to thwart near-term incursions.

While the arms package under consideration may not of itself endanger Israeli security, the relevant issues are more comprehensive. We simply can no longer be content with the veneer, rhetorical and actual, of a balanced United States-Saudi relationship. Reality strongly suggests otherwise, and to overlook or minimize that reality is to dishonor the noble policy objectives we so boldly proclaim for the region. Substantial assistance to Saudi Arabia must exact substantial reciprocity in the pursuit of allegedly similar ends. Anything less amounts to converting military aid to ransom payments in the hope of moderate behavior.

Nor can the administration glibly assert that U.S. aid is required to bolster a fragile regime beset by multiple threats. If the Saudi Government is indeed so inherently unstable, how confident can we be that the weapons systems being offered won't eventually become the property of dedicated terrorists? The effects of such a possibility are chilling to contemplate.

For these reasons, Mr. President, I am compelled to support the resolution of disapproval before us today. Until such time as the Saudis concretely demonstrate their willingness to assist United States strategic aims in the Middle East, prudence demands a hard reassessment of our arms transfer policies. I therefore urge my colleagues to likewise support the pending resolution.

The PRESIDING OFFICER (Mr. HECHT). Who yields time?

Mr. LUGAR. Mr. President, I yield 5 minutes to the distinguished chairman of the Committee on Armed Services, the Senator from Arizona [Mr. GOLDWATER].

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, I rise to oppose Senate Resolution 316. I support the proposed missile sale to Saudi Arabia.

There are sound strategic reasons for the sale, but the point I wish to emphasize is that we must live up to past promises to support the defense capabilities of our friends.

Mr. President, only 4 months ago, I completed a trip that took me around the world for the purpose of visiting not only our own military bases, but the bases of friendly countries in locations where the United States has vital security interests. One common theme which I discovered was the disturbing repetition of the concern that the United States was unable or seemingly unable to keep its word once given. We are living up to our promises to supply defensive equipment even when Presidents of the United States have repeatedly made commitments to do so.

The proposed missile sale to Saudi Arabia is a follow through to earlier arms help we provided the kingdom in 1978 and 1981 and is responsive to Saudi Arabia's urgent request for adequate defense assistance. Our basic commitment to the security of Saudi Arabia dates back much further.

Saudi Arabia is a country with which the United States has had friendly relations since its emergence as a single kingdom in the early 1930's. The basis of a special friendship with the Saudis can be found as early as 1938 when Americans were the first to discover the oil other prospectors had spent several years looking for. But the true foundation of America's relationship with the kingdom rests not on sentimental proclivities but on geopolitical realities.

U.S. Presidents have publicly declared that the United States has a major interest in the security of the kingdom since Franklin Roosevelt announced in 1943 that "the defense of Saudi Arabia is vital to the defense of the United States."

The deterrence role served by a credible Saudi defense supports our strategic interests in what I would like to call the Islamic crescent. This area includes every country in the Middle East, all oil producers, some of them friendly to the United States, some of them not, but all of them potential targets of the Soviet Union.

The defense of Saudi Arabia supports the free flow of oil to U.S. allies and helps to keep the war between Iran and Iraq from spreading across the gulf and down the Arabian Peninsula. In effect, Saudi Arabia is a barrier shielding friendly Arab nations both from the pressures of Soviet expansionism and from radical Arab turbulence.

However, if Saudi Arabia is to play a constructive role in resisting radicalism and defending against the Russian threat, we must support her legitimate defense needs. The kingdom is incapable of achieving security through wealth alone. It needs defensive arms to protect its people and oil fields and to defend shipping in the gulf. And what is needed most is a strong demonstration of the ability of the United States to fulfill its commitments.

If the Congress of the United States turns down a major foreign policy decision designed and endorsed by the man primarily responsible for foreign policy in our country, then I see very dire results around this world.

If this disapproval comes about, then some of our friends who are not too strong in their friendship will, in all probability, pull back from this country. They will doubt our soundness and ultimate steadiness. And their reasoning, that probably every country in the world will share, will be that if the U.S. Congress cannot back the President in such an important decision, then how can we entrust the future of our country to an alliance or cooperation with the United States.

In fact, even forgetting the trust, the question will be how much faith can we put in the United States, its power, its determination to use what power it has, and its decisions? This, to me, far transcends every other consideration and should be the deciding factor in the mind of every Member of Congress who feels inclined to oppose the missile sale, unless that opposition is based firmly on the conviction that fulfillment of it would do damage to our foreign policy. And by that I mean the foreign policy interests of all Americans and not only the interests of a single bloc of voters.

Mr. President, this is not a particularly easy position for me to take. But I feel I must make my position known because of my strong feelings on American security and my belief that there comes a time when we must make a decision as to whether it is more important to consider the protection of the United States than it is to consider the tremendous influence of another country on the Congress. Now, I say that with the full realization that my country is committed to the total defense of Israel. I honor that commitment and I will abide by it if Israel comes under the threat of any other country.

There is no question here about our loyalty to Israel. These items do not introduce anything new into the Saudi inventory. But to say no to a commitment made by the President of the United States and to say no to a friendly Arab nation whose security is vital to our own defense would be a bad mistake.

We cannot expect our friends in that part of the world or elsewhere to stand up to a Soviet thrust or radical threats if they believe that the United States has lost the ability to make credible commitments. Our foreign policy cannot safely be tied to the volatility of American politics and the un-

predictable shifts of mood among 535 Members of Congress; nor can it be guided by an undue concern about what some political lobby may think who is not representative of the general interests of the whole American people.

We are a deliberative body of one nation, with one interest, that of the United States and the people at large and we are not a Congress of ambassadors from different nationalities, creeds, or other groups. I hope we will keep this principle in mind as we move to a vote on the pending resolution.

Mr. CRANSTON. I yield myself 5 minutes.

Mr. President, it is clear that a majority of the Senate will vote to block the Saudi arms sale and that, together with our colleagues in the House, we will thus adopt and send to the President for enactment a joint resolution barring a proposed arms sale.

□ 1900

This would be the first time that a Senate majority has ever voted against any arms sale. And it would be the first time that a joint resolution disapproving an arms sale was ever sent to the President.

These would be serious steps, to be sure. It is especially important, therefore, for the proponents of this resolution to lay out our case in some detail.

As the author of Senate Joint Resolution 316—which would, if enacted, bar the execution of the Saudi missile sale—I am proud to have as cosponsors some 64 of my colleagues. Clearly, we are a bipartisan group who represent the sentiment of a large majority of the Senate that this sale should not go forward at this time. I believe there are more Senators who will vote against the sale even though they are not cosponsors of the disapproval resolution.

For 16 months now, we have made special efforts to avoid this confrontation between the legislative and the executive branch. On January 29, 1985, I sent a letter to President Reagan cosigned by 64 Senators expressing our serious reservations over any new Saudi arms sale. Then again, last September, when proposal of such a sale appeared imminent, I circulated a resolution of disapproval which was promptly cosponsored by a majority of the Senate. The administration has been fully aware of these facts. And yet they have chosen to proceed and force tonight's confrontation.

At issue today is not the security and survival of Saudi Arabia. No, indeed. The administration readily concedes that the more than 2,500 missiles in the proposed arms package have no relevance whatsoever to Saudi security in the 1980's because they will not even be delivered until the 1989 through 1991 timeframe.

The fact is that we are engaged today in an exercise in signal-sending. And the debate between Congress and the executive branch over which signal to send to Saudi Arabia is, in my view, an appropriate and legitimate one. The signal which the administration seeks to send was best summarized by a State Department official in a recent interview, when he declared, "We want to get back to business as usual" in the sale of advanced American arms to Saudi Arabia. The signal which a majority of the Senate wants to send is the opposite one; we want to make clear that it is no longer in the national security interests of the United States to sell advanced weapons to a nation which consistently scorns American interests.

It is American interests—no more and no less—which are at issue here. And the fact that the Government of Israel or the American Israel Public Affairs Committee, while both on record in opposition to this proposal, have not chosen to fight this particular sale all out is beside the point when American interests are threatened.

The United States has many interests in the turbulent Middle East region beyond simply checking Communist advances and keeping the oil flowing. These include broadening the Camp David peace process, combating terrorism while denying terrorists any base of support, and helping our key allies Egypt and Israel to maintain their military and economic security.

The Saudi Kingdom has not only failed to support the administration in each of these crucial areas, they have actively opposed us—undermining King Hussein's efforts to involve Jordan in the peace process, isolating Egypt for its willingness to pursue peace, bankrolling the terrorist PLO and Syria, boycotting American businesses trading with Israel, and repeatedly siding with Mu'ammar Qadhafi in the Libyan dictator's earlier and recent showdowns with America.

The administration claims that the proposal is a crucial test of our friendship.

I say it's time we ask the questions about the friendship of others. We have amply demonstrated our friendship for the Saudis. We have sold Saudi Arabia 50 billion dollars' worth of arms and defense services in the past 30 years, more than we have sold to any other nation on Earth. We have maintained this relationship even when the Saudis embargoed our oil, quadrupled its price, and made war on our crucial ally Israel. When do we pass the test and earn the right to ask about Saudi friendship for the United States?

Recently, the administration has advanced a second reason—the so-called Iran threat to the Saudi Kingdom. But these missiles would not even be delivered to the Saudis until another 3 to 5 years have passed. And the Saudis already have more than enough missiles to overwhelm any threat posed by Iran; Riyadh's arsenal is teeming. Besides, the fighting between Iran and Iraq has been reduced to World War I style ground combat where the type of antiaircraft missiles which we propose to sell the Saudis would be of no utility.

For nearly two decades, the United States has granted virtually all Saudi arms requests. Originally part of the so-called twin pillar policy—which held that our interests on the Persian Gulf could best be secured by arming the Shah of Iran and the Saudi monarchs to the teeth—this principle is no longer a sound basis for American policy. Past readiness to meet Saudi desires for our most advanced armaments has not yielded Saudi support for key United States initiatives.

Now is not the time to send more weapons to an uncertain friend in the Middle East, a friend that has aligned itself with the terrorists of Tripoli. And now is not the time to send such a nation a weapon like the Stinger, a shoulder-fired antiaircraft missile—a weapon so easily adapted to terrorist acts that it has been "the terrorist's delight."

The pending missile sale—which meets no legitimate, urgent Saudi need—is an appropriate place to draw the line. We should reject the sale and thereby send the Saudis a signal that our friendship entails certain minimal obligations as well.

Mr. President, while I have had a number of differences with the Reagan administration in the realm of foreign policy, there have been important principles which I have worked closely with administration officials to advance.

For example, we are all united in this body, Republicans and Democrats, in our determination to give terrorists no safe harbor and to deny them moral, economic, and diplomatic support. There is therefore no justification for funneling another 2,500 missiles—many of which are ideal for terrorist use—to a nation which has so consistently given financial aid and diplomatic support to nations and groups which back terrorism.

Similarly, I have joined in support of the administration's determination to reject a "blame-America-first line"—the idea that if our relationship with a particular nation has soured that somehow the United States is first to blame. And yet, running throughout the administration's efforts to justify the Saudi's latest request is the idea that we are being tested, that our credibility is at stake, that the United States has not demonstrated our sensitivity to Saudi Arabia's concerns.

This is nonsense. It's absurd for administration officials to keep berating the United States for not doing more for the so-called moderate Arab States. We have made very, very clear over the years that we make distinctions between the more relatively moderate states like Egypt and Jordan, and those—such as Syria and Libya—which routinely employ terrorism as a tactic for advancing national policy.

The American taxpayers have given over $10 billion to the people of Egypt in the past 5 years alone. Just last year, we voted $250 million in aid to Jordan, even though that nation still refuses to sit down in direct peace talks with Israel. And of course, we have sold the Saudis some $50 billion in defense goods and services over the past decades.

We have gone the extra mile.

We have made clear that we will reward greatly those who stand with us in the search for peace and the fight against terrorism.

But let us now stop berating ourselves. Let us make clear that we expect something modest in return, some minimal sensitivity to our fundamental national interests.

Mr. President, let me say in conclusion that President Reagan has won plaudits for his willingness to take strong action against Third World dictators and potentates who consistently scorn American interests. I believe now is the time for Congress to demonstrate similar resolve. Let us vote today to shelve the pending sale, and thereby make clear that we look to the Saudi monarchy to show a bit more sensitivity to our key national security needs before we will be prepared to entertain future requests.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. CRANSTON. Mr. President, I yield 3 minutes to the Senator from Connecticut.

Mr. DODD. Mr. President, I rise in support of Senate Joint Resolution 316 prohibiting the administration's proposed $354 million arms sales package to Saudi Arabia.

The strongest objections to this sale stem not from its components, but from the message it sends to the Saudis, the Middle East, and to the rest of the world.

Clearly the administration views this sale in terms of business-as-usual with the Saudis. It marks our President's 6th year of participation in what has been a superlative 13-year, $50 billion rearming of Saudi military forces. But with anti-American sentiments coursing through Arab streets, terrorism at its highest level in history, and a Middle East peace process which is barely breathing, the time has come to pursue a more constructive policy.

It is, in fact, precisely because this sale is so "routine" that it must not take place.

The administration believes this sale, like so many other "routine" sales, will be rewarded with a cooperative, responsive Saudi Government willing to advance important regional interests—including a solution to the Arab-Israeli conflict. This is simply naive. There is no historical basis for such a claim and there is no reason to believe that we will see such a legacy begin in 1986. In the aftermath of the Camp David accords—the most significant development in the Middle East since 1948—where was Saudi support? It was given to the chorus of condemnation and ostracism which Egypt received from the Arab community. Or where was Saudi support for President Reagan's 1982 Middle East peace effort? It was certainly not found in Riyadh's summary rejection of those efforts and renewed calls for a Jihad—holy war—against the State of Israel.

Perhaps the inclination to support this regime comes from its appearance of moderation against the backdrop of the Qadhifis, the Khomeinis, and the Abu Nidals who inhabit the region. But this ability of the Saudis to speak something of our language—a language that is rational and staunchly anti-Communist—obscures the fact that they speak out of both sides of their mouth. Do they speak the language of peaceful change? The language of honest diplomacy? The language of regional détenté or of a commitment to a stable global economy?

At best these are open questions—but the record is not reassuring. Rather, it is replete with unfulfilled pledges and only the gilmmer of hope for cooperation. and this administration either fails to consider that record, or is prepared to look the other way. The Saudis have made it clear through word and deed that they share few, if any, of our aspirations for the Middle East.

The Saudi Government opposes the Camp David peace process and persists in diplomatic and economic sanctions against Egypt.

The Saudi Government bankrolls the PLO and supplies substantial assistance to the Government of Syria. Funding of the PLO reaches at least $26 million a year, and probably much more than that.

Last year the Saudi Government royally welcomed Col. Mu'ammar Qadhafi and proceeded to resume diplomatic relations with his regime. Their condemnation of the President's recent attack on Libyan terrorism was unmistakable.

Mr. President, American interests in the Middle East depend on international stability, an ongoing peace-process, and a secure Israel. This sale would advance none of these interests, but only serve to pump more sophisticated and lethal weaponry into an already overarmed and unstable region. Moreover, there is an ever-present risk that some of these weapons will fall into the hands of terrorists, who are anxious to make grim use of a weapon like the shoulder fired Stinger antiaircraft missile.

This sale is no substitute for a constructive policy. Yet, supplying the Saudis with arms has been, for all practical purposes, the sum and substance of the Washington-Riyadh relationship. Not surprisingly, then, in the administration's view, continuing the arms sales pattern gives at least the appearance of progress. But what this administration must learn is that fighter aircraft and bomb racks and missiles do not constitute a meaningful policy. Rather, they constitute the illusion of policy.

Mr. President, 5 years ago I rose before this body to make a request of President Reagan. I asked him for a statement of policy—an unambiguous guide for Arabs, Israelis, and the rest of the world which would make clear how Americans would use their power and prestige to help resolve the tensions and conflicts in the Middle East. With the exception of a peace initiative that proved to be a flash in the pan, today's sale is all we have to show the world. It is discouraging that all this administration—now in its sixth year—has on the table is another arms sale to Saudi Arabia. Like so many of those before it, this sale does not serve the interests of peace, nor of stability, nor of the security of our allies in the region.

Mr. President, I urge my colleagues to support the resolution of disapproval.

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

Mr. CRANSTON. I yield 3 minutes to Senator D'AMATO.

Mr. D'AMATO. Mr. President, I rise today to voice my strong support for S.J. Res. 316 which disapproves the proposed arms sale to Saudi Arabia. I commend my good friend, the senior Senator from California, for the introduction of this resolution, of which I am an original cosponsor. This legislation will prohibit the proposed $354 million sale of missiles to Saudi Arabia.

The administration has formally notified Congress that it intends to sell Saudi Arabia Stinger ground-to-air missiles, Sidewinder air-to-air missiles, and Harpoon antiship missiles. To justify the sale, the administration has cited Saudi Arabia's moderating influence in the Middle East, its close friendship with the United States, and the dangers it faces from the Iran-Iraq war.

I find fault with such reasoning.

Saudi Arabia has consistently worked to undermine the Arab-Israeli

peace process. Saudi Arabia supports two of America's main terrorist threats, Libya and Syria. Saudi Arabia has provided substantial monetary assistance to the PLO.

The United States has supplied Saudi Arabia with over $44 billion in arms since 1971, $22 billion during this administration alone. I do not believe that this additional sale is necessary to prove our friendship.

I also question whether Saudi Arabia truly needs the additional missiles. How is this sale urgent if the missiles are not going to be sent to Saudi Arabia until 1989? Mr. President this is just a preliminary sale. The administration, I expect, will come back in the near future and ask to sell even more sophisticated weaponry. It is important, therefore, that we stop this sale now.

Saudi Arabia has not even lived up to the AWACS agreements. Congress was assured at the time of that sale that future deliveries to Saudi Arabia of AWACS and other advanced arms would take place only if peace efforts in the region have the "substantial assistance" of Saudi Arabia. Such assistance has not been rendered.

Part of this proposed sale includes advanced, hand-held Stinger missiles. The Iranian Air Force has a limited number of planes capable of flying. Saudi Arabia, which already has Stinger missiles, has more than enough missiles to defend against this supposed threat.

Our total arms sales to Saudi Arabia since 1950 are larger than those to any other nation. No other nation has exceeded $12 billion in total arms purchases during this time period. In fact, total arms sales to all of our European allies combined amounted to just $50 billion during the last 3½ decades, barely more than Saudi Arabia's purchases alone. Last year, by purchasing $3.5 billion of American arms, Saudi Arabia purchased 25 percent of all United States arms exports.

These facts, coupled with the recent purchase of advanced fighters from Great Britain, make it difficult for me to believe that this sale is important to the security of Saudi Arabia. There are other, less lethal and less destabilizing goods we can sell to Saudi Arabia to show our friendship.

It is not in the best interest of the United States and our allies in the Middle East, particularly Israel, that this sale go through. Saudi Arabia still has to prove that it truly stands for peace in the Middle East before the United States provides billions more in military sales.

I simply ask this, Mr. President, when are we going to learn? We have made sale after sale of weapons based on the promises of Saudi cooperation in aiding the peace process only to see them conduct business as usual.

Not too long ago, we viewed Iran under the leadership of the Shah as a stable government and a bastion against communism. We delivered repeated sales of sophisticated weapons to the Iranians only to see that regime fall literally overnight.

What is to guarantee that the same sophisticated weapons we provide to Saudi Arabia will not fall into the hands of someone as extreme as Ayatollah Khomeini.

Mr. President, this sale is being put forth at the wrong time for the wrong purpose. I would hope that we would cease and desist from this sale. I would hope that the administration would take another position. I would far rather we not have to go forward with this resolution, but as we have no choice, I urge my colleagues in the Senate to pass S.J. Res. 316 overwhelmingly.

Mr. President, the fact that so many of my colleagues have cosponsored this resolution shows the true concern of this body over this proposed sale.

Thank you, Mr. President.

Mr. LUGAR. Mr. President, I yield 3 minutes to the distinguished majority leader.

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Mr. DOLE. Mr. President, this is a very sensitive issue. In fact, it has been the subject of some rather extended conversation, but we have worked it out. It is on the floor.

A VOTE WITH RESERVATIONS

Mr. President, I will vote today against S.J. Res. 316, but I cast that vote with some very significant reservations.

I share many of the concerns expressed by those who support this resolution. I am not at all sure that this is the right sale, to the right country, at the right time.

SAUDI RECORD TROUBLING

I am troubled by the spotty—and that is a mild term, in the circumstances—the spotty record of the Saudis in the Middle East peace process. I am deeply disturbed that, in the aftermath of our retaliatory air raids on Libya, the Saudis chose to condemn us and express support for Libya—whatever the delicacies and sensitivities of the Middle East Political situation, there is no excuse for that kind of action from a country that professes to be our friend.

So I cast my vote today not as any kind of sign of approbation for Saudi Arabia. I will vote against the resolution for three other reasons.

WILL NOT UPSET MILITARY BALANCE

First, I am convinced that this sale will not significantly alter the balance of military power in the Middle East. More specifically, it will not materially increase the military threat to Israel. If it did, I would vote against the sale.

The arms the administration plans to sell are of types the Saudis already possess and with which the Israelis can cope, in the very unlikely event they ever should have to. Our defense specialists are convinced of that. More to the point, the Israelis seem comfortable on that point, too.

I ask unanimous consent to have printed in the RECORD at this point an interview with with Tom Dine, the executive director of the American-Israeli Public Affairs Committee and one of the most knowledgeable and influential figures in Washington on Middle East affairs. Mr. Dine comments directly on the question of the military impact of this sale on Israel and the Middle East.

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

[From the Washington Jewish Week, Apr. 9, 1986]

TOM DINE: CHARTING AIPAC'S COURSE

(Sitting in the eye of the storm over the American Jewish lobby's recent decision not to actively oppose the upcoming arms sale to Saudi Arabia. AIPAC executive director Tom Dine remains calm and collected. Below are excerpts from an interview with Dine in his Capitol Hill office, conducted by WJW staff writer Lisa Schneider.)

WJW: Please explain for our readers why AIPAC chose not to fight the Saudi Arabia arms sale now, after opposing the administration's proposed sale last year.

Dine: The first reason is because the original package of January 1985 contained 40 F-15s, M-1 tanks, armored personnel carriers—the new one, the Bradley infantry fighting vehicle—and Blackhawk helicopters. The F-15s particularly, carry the Sidewinders. We know that Saudi Arabia has a lot of Sidewinders already—getting more, and not more planes, does not make them more militarily capable. The same with the Harpoons.

Second point. Stingers obviously, should never be in the hands of terrorists. Of course, we're against them going out there, but again the administration had delivered 400 of them around Memorial Day . . . with 100 launchers. This package is 800 with 200 launchers.

I knew ahead of time that we were going to arm [Angolan rebel] Savimbi and the Afghan anti-Soviets with Stingers. Once the U.S. starts transferring this highly sophisticated weapon to organizations that cannot secure them, that argument dissipates. I think it's wrong to arm Savimbi [. . . and] the Afghans as well because they're going to fall into the hands of anybody who pays the bigger price. They're going to be bought on the black market.

Third point why not to fight: Every defense analyst that we have gone to—American and Israeli governmental and non-governmental—has analyzed this missile sale as not affecting significantly the balance of military power in the region. And you have to be honest about that.

Fourth, any organization must have priorities. No organization can be totally reflexive. Once having looked at the military content of the sale, and its effect on the military balance in the region, once having seen it become a different package, knowing that you can't fight everything—you must pick

your fights—we decided this was not the one to fight.

WJW: Does that undermine your credibility in future arms sale battles?

Dine: I don't think so. Each sale will be looked at individually. And we have done that.

We don't fight every sale. We oppose them, but we don't mount a challenge to every single sale to so-called "moderate" Arabs. We only mount challenges, we only call for a full-scale, wall to wall oppositional force on a select few arms sales to Arab countries still at war with Israel.

You cannot just be a fighting machine. You have to be beyond that, and that's the message I'm trying to give. Is it new? Yes. But I'm saying, though, that I'm not going to head just a reflexive organization.

We can fight, and the president of the United States and secretary of state know we can fight. . . . So I would argue that our credibility has increased, from that perspective. I also have to be honest with reality. There are several friends, good friends, on Capitol Hill who wish we had decided not to do what we decided to do.

WJW: Where does this leave staunch friends of Israel?

Dine: They're going to continue to fight it. [Sen. Alan] Cranston has said so, [Rep.] Mel Levine has said he will continue to fight it.

WJW: Do they feel out there by themselves now?

Dine: They think we've made a mistake. They wish that we had not decided what we decided, and that's reality.

Hopefully, they'll understand our side—and I certainly understand their side. Part of the anger is that I told Shultz before I told them. But I told Shultz, by the way, 22 minutes after the House of Representatives had voted down the $100 million for the contras, and I walked in and I said, "I have some good news for you." And it was good news.

So you win points and you lose points.

WJW: But these are key people you can't afford to lose down the stretch.

Dine: Absolutely. I don't think we've lost them.

WJW: Is this a major split between AIPAC and friends?

Dine: That's a good question. I don't think so.

WJW: Is it true that the Israelis put out the word that this was not a sale that they thought was particularly threatening?

Dine: Yes, but they've done that before. That has an effect, but doesn't have as great an effect sometimes as I think we think it does.

But I will say this—the opposition to the Jordan arms sale and the opposition to the Saudi missile sale are different. There was never the enthusiasm on the Hill to oppose the Saudi arm sale the way there was for Jordan. . . .

And this is the key: the missile sale is not linked to the peace process . . . and that [linkage] should be American foreign policy. If Jordan and Saudi Arabia would deal directly with Israel, then they're going to get arms the way Egypt does.

WJW: One of the reasons AIPAC is not actively fighting the sale is because of the excellent U.S.-Israel relations at the present.

Dine: That would be the fourth reason. People engaged in business of the diplomacy between two nations like each other. That's one level. Second, each nation is getting something from the other.

What is the U.S. getting? The idea of prepositioning materiel on Israeli soil. We've been unable to do it in Egypt, or Jordan or Saudi Arabia or Lebanon. The idea that Sixth-Fleet naval aviators, the same ones that bombed Libyan boats, can practice their bombings in the Negev on Shabbat, because the fields are open, is an advantage to the U.S.; and on and on it goes. And the institutional arrangement—then are real meaningful talks on a regular, ongoing basis between political and military people of each side.

WJW: What will AIPAC's role be in the movement afoot to reverse the scheduled delivery of AWACS?

Dine: Members of Congress are going to probe the administration during congressional hearings on the current missile sale. Several members have raised the question surrounding the fulfillment of the letter of Oct. 28, 1981. We will be raising those questions as well.

Second, we have to look into what are the other countries who can buy those AWACS? The Nimrod, which is the British so-called sequel, isn't being built now. We understand the British and maybe others want to buy AWACS. The key will be: are there other takers to the four or five that are being built by Boeing for Saudi Arabia?

We have to be very careful about this. . . .

WJW: Will aid to Israel ever increase again?

Dine: I don't see it. All the more reason for Israel to increase its export economy, to continue to cut its own budget, for pro-Israel supporters in this country to think about investing in Israel.

OTHER SOURCES FOR ARMS AVAILABLE

Mr. DOLE. Second, I will vote against the resolution because—even should we choose not to provide these armaments to the Saudis—they will get them, or arms much like them, elsewhere. That is a hard, practical fact, about which we can do nothing. And in that case we will have accomplished nothing except to have forfeited what leverage we may have over Saudi policy actions.

PRESIDENT NEEDS MAXIMUM FLEXIBILITY

Finally, and I think very importantly, as the distinguished chairman of the Foreign Relations Committee indicated earlier, I will vote against the resolution because I think we have to give the President, except in the most extraordinary circumstances, the flexibility he needs to conduct our foreign policy in the way he deems fit. That is his job under the constitution. That is his responsibility, under our political system.

The political situation in the Middle East is extraordinarily complex. There are no easy decisions. I am sure the President's decision to proceed with this sale was not an easy one. I know my own decision on this vote was not an easy one.

SENDING THE RIGHT SIGNALS

But I will vote with the President, in the hope this sale, if it finally goes forward, will send the right signals in the Middle East; in the hope it will encourage the Saudis to play a more constructive role; in the hope it will convince Middle East moderates that the United States stands by its friends and is willing to reward those who do play a constructive role; and in the hope it will reduce the chances of Iranian expansionism or adventurism.

I thank the distinguished chairman.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I yield 3 minutes to the Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I rise to support the position of my friend from California. I reject the premise that disapproval of this sale would mean that America doesn't keep its word. America does keep its word; we do fulfill our commitments. We certainly have as regards providing Saudi Arabia with a strong defensive capability.

We have, as the Senator from California has pointed out, sold an enormous amount of military equipment and other materiel to the Saudis. Since 1973. The figure is an astounding $44 billion; $22 billion since 1980. Indeed, the next largest purchaser of U.S. military equipment has bought only $12 billion. So let no one question whether we have indeed met commitments to the Saudis.

We are told the Saudis are supposed to be moderate, yet they oppose every peace effort aimed at resolving the Arab-Israeli conflict; and yet Egypt is ostracized by the Saudis because they made peace with Israel. For some reason, however, this, in the Middle East can still be labeled moderation.

The Saudis boycott American businessmen who would deal with the Israelis. They are not helpful to the Jordanians in their efforts to gain peace in the Middle East. They voted to condemn the United States when we captured the terrorists responsible for the hijacking of the *Achille Lauro*. Now they publicly sympathize with the Libyans after our retaliatory attack. In the United Nations, the Saudis voted with the United States only 13 percent of the time in recent years and never more than 20 percent in other years. They vote with all the radicals of the world—and yet, we are supposed to believe they are moderates.

We sold AWACS to the Saudis with the stipulation that they would aid U.S. interests in the region and move toward helping peace in the Middle East; but the very next day after the sale was approved here in the Senate—the very next day—they raised the price of oil. And then the very next day they said that their real enemy is Israel, not Iran as we were told; that Israel was their concern, not security in the Persian Gulf.

Mr. President, I hope one day that we are able to sell, with the full consent of this body, arms to the Saudis. What an ally they would be in making peace in the Middle East. With their

ability to help states in the Middle East, what an ally they could be in supporting the peace efforts that perhaps could finally end the travail of that troubled area.

Imagine, Mr. President, what a positive force for change the Saudis could be. We are told that is not their style. But why should that be, and why should we willingly accept that premise? The Saudis spend inordinate sums, giving money to all sorts of parties in the Middle East to keep them from meddling in Saudi Arabia's internal affairs. Imagine if they would use this money instead as a constructive force to solve problems instead of just trying to keep those problems beyond their doors. Imagine if that money had gone to better the lot of the refugees instead of the PLO. Imagine if that money had gone to economic development in the region instead of funding Syria.

So I hope one day, Mr. President, we indeed will be able to sell arms to the Saudis and do so because of their actions. But now there is hardly a justification. There is simply no justification from the actions that they have taken in the Middle East that would justify to us that now is the proper time to move in making this sale.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LUGAR. Mr. President, I yield 2 minutes to the Senator from Alabama.

Mr. DENTON. Mr. President, the good news tonight is that I heard the majority leader, the chairman of the Armed Services Committee, and the chairman of the Foreign Relations Committee defend the President's initiative on this sale. The bad news is that Congress is apparently of the mind to continue showing reluctance to follow the lead of the man mandated to identify our interests and conduct policy in support thereof.

I am as in favor of our moral and strategic commitment to Israel as anyone in this room. I believe that we can support the interests of the United States with no prejudice to the moral and strategic commitment to Israel. I believe ATPAC is not particularly rabid or even strongly opposed to this sale.

I believe a fact that should be considered by us is that the Saudis are relatively low in self-defense capabilities. I, as an officer in the Navy, helped conduct a 3½-year project to build up that capability. I am afraid it is still weak, in spite of the figures given here, in light of what is happening with respect to Libya, Sudan, and Chad, endangering Egypt; in light of what is happening with the radical entente of Syria, Libya, Iran, North Korean, and Cuba and with their efforts to expel North Americans from areas of influence and strategic importance around the world.

That falls right in with Brezhnev's two objectives, one of which he stated to be denial to the West of oil in the Mideast. We are tampering with a vital interest of this country today, and I think we are tampering with it without thinking about it deeply enough.

I wish we could vote in favor of the President's proposal. The Saudis, in condemning our military action in Libya, are responding to the politics of fear. Are we doing that? Are we exacerbating the fear in Saudi Arabia? We are exacerbating the fear in Saudi Arabia, as elsewhere, deriving from their observation that the United States does not support its friends and the Soviet Union does.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CRANSTON. Mr. President, I yield 2 minutes to the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise in support of Senate Joint Resolution 316, the resolution to disapprove the proposed sale of advanced weapons to Saudi Arabia. I am one of the five original cosponsors of this resolution of disapproval, and I want to commend my colleague, Senator CRANSTON, for the outstanding leadership he has shown on this issue.

This sale is a bad idea. The Saudis do not need these weapons. They do not deserve them. I disagree with the administration that this sale will help advance our foreign policy in the Middle East. In fact, it is my view that the sale would more likely exacerbate terrorism than lessen it. The weapons proposed for sale to the Saudis could fall into the wrong hands, further threatening the security of innocent civilians from our country and others.

The military justification for this sale does not withstand close scrutiny. The delivery of sidewinders, harpoons, and stinger missiles proposed for sale to Saudi Arabia, as a buffer against the Iranian Air Force, will not even begin until 1989. Saudi Arabia already has over 3,000 sidewinder missiles to knock out less than 100 Iranian planes. This sale cannot help the Saudis deal with any near term threat from Iran. But, should it be approved, it would give them at least 36 missiles per aircraft, a ratio far higher than either the United States or Israel. I think that is excessive and unnecessary.

Mr. President, perhaps because the military rationale for this sale is weak, the administration has not emphasized it. Instead, it has emphasized the need to signal our determination to back the Saudis against the revolutionary fundamentalism of Iran. I share this goal. But, I do not believe that selling the Saudis weapons effectively serves this goal.

We have already signaled our determination to support Saudi Arabia in ways that will actually help her—by stationing 4 U.S. Air Force AWACS in Saudi Arabia to assist the Saudi Air Force in the Persian Gulf, and by sending combat units to Saudi Arabia, including F-15 fighters, when they were needed. We have sold Saudi Arabia $50 billion worth of military goods and services, more than any other country in the world.

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Mr. President, it has been argued that if we don't make this sale, our credibility with the gulf Arab States and Saudi Arabia will be undermined. But United States arms to Saudi Arabia equal our sales to all our European allies combined. Our Saudi sales are higher than to any other country. How often must we prove our credibility? How many sales must we make until each one stops being a litmus test of our friendship?

Mr. President, America should stop submitting to Saudi litmus tests and administer some of our own. Saudi Arabia would not pass. She has not supported our foreign policy interests in the Middle East, but supported our enemies. Saudi support for Muammar Qadhafi is the most recent example.

When the United States stood up to Libya following the terrorist attacks in Rome and Vienna's airports, Saudi Arabia took Libya's side. She supported an Islamic foreign ministers statement condemning United States economic sanctions, expressing solidarity with Libya. That statement also promised to make good on any Libyan economic losses caused by the United States boycott.

After Libya's attack on the United States in the Gulf of Sidra, Saudi Arabia supported an Arab League council statement expressing full solidarity with Libya. The statement labeled the United States a threat to the safety of Arab countries, denounced United States aggression, and called on the Arab countries to provide Libya with assistance to confront it.

The Saudis continued their support of Qadhafi further, calling President Reagan's retaliation against Libyan terrorism "counter to all international norms." Saudi support for Muammar Qadhafi is a direct slap at American foreign policy and our attempts to eradicate terrorism.

Saudi support for Muammar Qadhafi is consistent with the Saudis' past record. The Saudis have bankrolled PLO terrorists to the tune of $114 million a year since 1979. And their financial support for Syria, another United States enemy is reported to be $500 million annually.

Saudi Arabia is not only a supporter of terrorists but an opponent of peace with Israel, our most reliable and steadfast ally in the Middle East. Israel provides the United States with

valuable intelligence on the Middle East and Eastern Europe. And Israeli military experience tests the performance of American and Soviet equipment in battle. Our alliance enables America to count on the use of Israeli air bases and seaports in a regional or greater conflict. Her security contributes directly to our own.

Saudi Arabia has consistently worked against American efforts to make peace in the region. She has opposed the Camp David process, the Reagan plan, and the Lebanon-Israeli Accord of 1983. Recently, Saudi Arabia refused to support King Hussein in direct negotiations with Israel. Instead, the Saudis reportedly offered Jordan free oil as an inducement to repair relations with Syria. The Saudis have led the effort to impose sanctions on American companies doing business with Israel and have tried to bribe Oman to deny the United States access to its military facilities.

Saudi Arabia has voted for a series of U.N. resolutions which condemn Israel. These resolutions lay the groundwork for expelling Israel from the United Nations and making her into an international pariah. They also criticize the American alliance with Israel as encouraging Israel to pursue so-called aggressive and expansionist policies.

Saudi Arabia remains in a state of war with Israel, and shows no sign of changing that status. Saudi forces took part in the 1948, 1967, and 1973 wars with Israel. We should not reward such a record.

Mr. President, I also have a real concern about where the weapons we sell today may end up tomorrow. The Saudis allow Palestinians to train with their army. They support the PLO financially. They already have enough stingers for their own needs. With this history of Saudi-PLO cooperation, there is a real possibility that stingers could end up in the PLO's hands.

And Saudi Arabia's participation in past wars against Israel increase the chances that Saudi stockpiles will serve as an arsenal for other states attacking Israel. Since stingers can shoot down commercial as well as military airplanes, the sale of these weapons would pose a real threat to air travelers of all countries.

Mr. President, when the Saudi's lack of support for United States foreign policy interests is added to the lack of military justification for this sale, a strong case is made for the Senate, and then the Congress, to tell Saudi Arabia: No sale.

Mr. President, I urge the swift passage of this resolution.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. LUGAR. Mr. President, I yield 2 minutes to the Senator from Washington.

Mr. EVANS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. EVANS. Mr. President, I rise to oppose the resolution now before us. Mr. President, the majority leader has said it well. I do not believe, the President does not believe, and the Secretary of State does not believe, that this sale represents a threat to Israel. I do not think there is a Member in this Congress that would vote for this sale if they believed that.

Israel is a good friend and ally. The United States will and should do everything necessary to protect the integrity and independence of a strong Israel. Does this sale threaten Israel? No; this sale will not affect Israel's qualitative military edge, an edge that is increasing and expected to continue to increase. The weapons in this sale are defensive in nature. The United States can and will impose restrictions on the storage, deployment, and use of the weapons systems in this sale. In addition, the Government of Israel has publicly stated that it does not consider the sale a threat to its security. I do not believe we should second guess the Israeli Government.

Can this sale enhance Israel's security? Yes; to the extent that it provides a moderate, pro-western Arab nation the means to defend itself and the other nations in the Gulf Cooperation Council. The sale will promote security and stability in the Gulf region. Again, as I noted above, the United States retains influence over the deployment and use of these weapons systems, as well as control of the flow of spare parts. This will not be the case if we deny this sale and the Saudis go elsewhere to purchase comparable weapon systems.

Mr. President, I believe that the most dangerous move toward instability in the Middle East today is not the chaos terrorism in Lebanon. It is not a whole host of other crises of the Middle East. It is the Iran-Iraq war. This tragic war is now in its sixth year and it may be tilting away from stalemate and toward Iran. This war took a dramatic turn in February of this year when Iran drove into Iraq and established a beachhead 10 miles from the Kuwait border. Some argue that this war is not a threat to Saudi Arabia's security, but it seems difficult to ignore the shifting balance of power and force in the region. These changes could create enormous instability in the Middle East threatening all of us.

Some have questioned whether Saudi Arabia would benefit from this sale when the delivery of the weapon systems would not commence until 1989. Weapons that have not been delivered will not provide a direct military benefit to Saudi Arabia but the sale itself has significance: it will send a message to Iran that the United States will help moderate Arab States defend themselves; it will send a message to Iran that the United States will protect its own interests in the region; and, it will send a strong signal of U.S. support to other Arab States, encouraging them to resist intimidation from Iran.

The sale has additional significance with respect to the perception of the United States and our commitments in the region. We are rapidly losing influence among the moderate Arab States in the region and losing the ability to influence events there. Denial of the sale will have enormous significance, heightened by the loss of the arms sale to Jordan. Once again, the United States will be seen to be breaking its pattern of support. The stability of our commitment to the nations in the region is at stake.

The performance of the Saudi Government is not always as we might like, but then even our closest allies do not always act in the way we would like. We must not forget that Saudi Arabia is an Arab Nation operating in an Arab world. Saudi Arabia has contributed to peace in the region and to other United States foreign policy objectives. Saudi Arabia is the key element in the collective defense effort of the Gulf Cooperative Council, the first line of defense for the Gulf States. It has supported every mediation effort to end the tragic Iran-Iraq war and was instrumental in achieving cease-fires in Lebanon in 1982 and 1983.

Saudi Arabia played a key role in moving the Arab position of no peace with Israel to a position of questioning how peace could best be achieved. It maintained its financial and quiet political support for King Hussein of Jordan after he reestablished diplomatic relations with Egypt in 1984 and during his 1985 effort to develop an agreed formulation for initiating direct Jordanian-Palestinian talks with Israel. Saudi Arabia has been directly responsible for keeping demands for sanctions and economic boycotts out of Arab League resolutions supporting Libya against the United States. It provides financial support for the security and economic development needs of key United States friends in the Arab world—such as Morocco, Pakistan, Jordan, North Yemen, Sudan, and Tunisia. Saudi Arabia also provides substantial humanitarian and other support for the Afghan mujaheddin or freedom fighters. It is also a major contributor to international development organizations such as the International Monetary Fund, the World Bank, the World Food Program, UNRWA, and the African Development Bank.

We must also ask ourselves whether by denying this sale we can force Saudi Arabia to change its policies. This is an unrealistic tactic that will not work. The Saudis can and will go

elsewhere for the weapons they need, as they did in the case of the Tornados. Loss of that sale cost the United States between $12 to $20 billion in lost sales.

I think it is time to quit second-guessing the President and the Secretary of State, to quit assuming that we, all 535 of us, are Secretaries of State. By doing so we create an incoherent and inconsistent foreign policy. I think it is time to support this administration, which has clearly and consistently, for the almost 6 years of its existence, supported the independence, the strength, and the security of Israel. To deny this sale will not keep the weapons out. They will buy them elsewhere. To deny this sale will inevitably reduce the influence of the United States in the Middle East where it is so critically needed.

We can argue about the actions of the Saudis in the past, we might wish they were better, and we hope that they can be an ally for peace. But mark my words, Mr. President. If we deny this sale we will inevitably watch, actions which will be adverse to the United States interests in the Middle East, and ultimately actions which will be adverse to the security interests of Israel itself.

Mr. CRANSTON. Mr. President, I yield 3 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I speak today to support Senate Joint Resolution 316 which would prohibit the sale of $354 million worth of sophisticated missiles to Saudi Arabia. The proposed sale of 1,696 Sidewinders, 100 Harpoons, and 800 Stinger missiles is the latest installment in a massive multiyear military supply relationship unprecedented in our history. Since 1950, arms sales to Saudi Arabia have totalled approximately $50 billion.

Five years ago, the Reagan administration proposed a major arms sale to Saudi Arabia which includes five AWACS aircraft and enhancements for their F-15's.

During the debate over the AWACS sale, President Reagan sent then Senate Majority Leader Howard Baker a letter stating that:

> Transfer of the AWACS will take place only . . . after Congress has received in writing a Presidential certification . . . that the following conditions have been met . . . that initiatives toward the peaceful resolution of the dispute in the region have either been successfully completed or that significant progress toward that goal has been accomplished with the substantial assistance of Saudi Arabia.

Supporters of that sale predicted an upturn in relations with Saudi Arabia. However, immediately after the approval of that sale, Saudi Arabia raised the price of oil by $2 per barrel, gave the PLO $28 million in addition to their annual payment of $114 million, and participated in an effort to block Oman's agreement to cooperate militarily with the United States. Since then, they resumed diplomatic relations with Libya; undermined the United States negotiated Lebanon-Israel accord of 1983 by refusing to fulfill an explicit promise to use their financial leverage on Syria to persuade it to withdraw from Lebanon; pressured Jordan not to accept the 1982 Reagan peace initiative; and opposed the latest efforts by King Hussein to enter the peace process by threatening to impose economic sanctions on Jordan if King Hussein entered into direct negotiations with Israel.

The Saudis have opposed the Camp David accords and punished Egypt for signing a peace treaty with Israel by severing diplomatic ties with Egypt.

The administration claims that the sale is needed for Saudi defense. But, the administration has not explained how this sale would enhance Saudi security.

The administration claims that our willingness to support Saudi Arabia has served as a deterrent to Iran and that acting now will send a strong signal to Iran. However, the administration fails to indicate how this new sale would provide stronger signals than those previously given. The United States has provided the strongest possible signs of our concern by stationing military units in Saudi Arabia, including AWACS and F-15's. However, these new weapons will not be delivered in time to have any impact on the current Iranian offensive.

Saudi Arabia already has been provided more than enough missiles to deal with any Iranian threat. Iran has fewer than 100 combat aircraft. Past sales have provided the Saudis with more than 3,000 Sidewinder missiles. This gives the Saudi Air Force 30 Sidewinders for every Iranian aircraft. Sale of more than 1,600 Sidewinders would give them more than 46 missiles per Iranian aircraft. This calculation actually understates Saudi inventories of air-to-air missiles, including the American Sparrow and the French Magic.

The administration claims that it is essential to the overall United States-Saudi bilateral relationship and to our credibility with the rest of the gulf Arabs, that we make the sale. Time, and time again the administration has been told that American credibility depends entirely on a given arms sale. Yet, the United States has sold more military goods and services to Saudi Arabia than to any other country. Indeed, no other country even comes close. Sales to Saudi Arabia since the 1950's exceeded $50 billion, including $20 billion remaining in the pipeline. No other country has purchases amounting to even $12 billion. Indeed, total sales to all our European allies combined amount to approximately $50 billion. This trend has continued in recent years. Just last year total sales to Saudi Arabia amounted to $3.5 billion, or more than 25 percent of sales to all countries.

This sale does not further U.S. interests; it does not promote peace; it does not make sense. I urge my colleagues to oppose this sale by supporting this resolution of disapproval. This sale has been called a test of United States-Saudi relations. Maybe it is a test—a test to see if there is sufficient interest and support to reconsider the sale of AWACS to Saudi Arabia.

The essence of my objection to this sale is that the Saudis have not supported the United States' interests in the Mideast. The President in urging the sale of the AWACS in 1981 said that we could pull the plug at any time if the Saudis failed to participate in the Mideast peace process.

Mr. President, I think the facts are unequivocal that the Saudis have not participated or contributed to the Mideast peace process.

On March 26 of this year in hearings before the Foreign Operations Subcommittee, I asked that pointed question of Secretary of State Shultz.

I ask unanimous consent that the full exchange be included in the RECORD.

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

Senator SPECTER. Thank you very much, Mr. Chairman.

Mr. Secretary, the Administration has submitted, for congressional approval, the sale of some $354 million in advanced arms to Saudi Arabia. The Administration has not yet delivered the AWACS, which was the subject of the hotly contested 1981 resolution of disapproval. I recall well when the President sought support for the sale of the AWACS to Saudi Arabia in 1981 that he articulated an approach that the sale was based on an interest in getting the Saudis involved in the Middle-East peace process. The President said that if the Saudis did not become involved in the Mid-Eastern peace process that the plug could be pulled on the delivery of the AWACS.

In the intervening time between 1981, when the matter was acted on by the Congress in October, and delivery, which I understand is now set for October of this year, can you be specific in terms of what the Saudis have done to assist in the Mid-East peace process?

Secretary SHULTZ. We will present, when it comes time for formal notification, a full statement on the Saudi arms package. The earlier sale and this one are not linked primarily to the peace process, they are linked to our strategic interest in the Gulf, and what happens in the Gulf. That has always been the prime resting place for it.

I think the ability of Saudi Arabia, with its planes, to assert itself in the Gulf has stood us in good stead, particularly during the tanker war period in which the Saudis successfully challenged and brought down Iranian planes. I think that it sobered the

situation up and it served our interests to have that country, in that area, take that action.

As their capacities develop further, I think it will further contribute to stability, just as I think it has been helpful to have strength in Saudi Arabia as we tried to cope with the problems in the Yemens recently.

Insofar as the peace process is concerned, that is a related matter, and it was stated in the President's approach back in 1981. Obviously, we are all disappointed that more has not happened in the peace process. It is a very difficult and hard problem. There are pluses and minuses to pass around on all counts.

However, my conclusion is, from having struggled with this and having talked with the Saudis a lot about it, and having watched their way of trying to have some impact on key players, they have made an effort to be constructive and contribute to it.

Mr. SPECTER. Were there time to read it into the RECORD, I think that the conclusion would follow from everyone's objective point of view as mine follows that the Saudis have not contributed to the Mideast peace process. The Saudis have not supported the United States, and in fact have backed Libya, denouncing the recent action of the United States retaliating against terrorist raids.

Mr. President, I ask the distinguished chairman of the Foreign Relations Committee, Senator LUGAR, to respond to what I consider to be the essential question of support of this sale; that is, in what way specifically have the Saudis contributed to the Mideast peace process?

Mr. LUGAR. Mr. President, King Hussein of Jordan has been assisted by the Saudis with cash payments so that he was able to be a part of the peace process. King Fahd announced a peace plan for the region in 1981 that for the first time moved the Arab consensus toward recognition of Israel's right to exist. The Saudis were also helpful in supporting United States diplomacy in Lebanon. They have pushed repeatedly for a settlement to the Iran-Iraq war. They have also supported the Afghan freedom fighters whom we also support. These are all elements of the testimony of the Assistant Secretary of State, Mr. Murphy.

Mr. SPECTER. I thank the distinguished chairman.

That is more specificity than given by the Secretary of State. With all due respect I do not think that brief statement—and I know it is abbreviated necessarily—or any statement of the Saudis' activities since 1981 constitutes any real effort or real support in the Mideast peace process.

When they have sent some of their financial assistance, it has been minuscule, and it is de minimus especially considering their support of the PLO.

Mr. President, on the face of this record, I think that the interests of the United States are best served by not making this sale. The standards which this Senator applies are the standards which the President articulated himself in 1981, and those standards are whether the Saudis have contributed to that peace process. I say they have not.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. LUGAR. Mr. President, I yield 30 seconds to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am opposed to the resolution of disapproval of the proposed arms sale to Saudi Arabia. The President's decision to meet the Saudis' request for more missiles is absolutely sound in my judgment. It passes every test that one might devise for such a sale. It is the best way to ensure that the United States will continue to have moderate friends in the Arab world, and that the United States will continue to have some influence in that area.

A United States rejection of the Saudi request may cause a serious breach in our 40-year relationship with the Saudis, will certainly convince them to look elsewhere for dependable arms sources, and will send a loud and clear message that we are not as good as our word.

When I see how quickly opposition to this sale has grown, I cannot help but wonder if it just a reflex. How many of the sale's opponents have taken a close look at exactly what this sale involves? We are considering the sale of Sidewinder, Harpoon, and Stinger missiles, none of which would be new additions to the Saudi arsenal. This would simply augment and upgrade what the Saudis have already bought from us. Until recently, we have given them every reason to believe that they could continue to depend on us for such followup sales, that we were committed to helping moderate Arab countries defend themselves. Yet for no good reason that I can see, there is now a movement to end that commitment. The resolution before use would throw into question an arms supply relationship which has stood for decades.

If this sale is disapproved by the Senate, it will not be the first signal we have sent to the Saudis that we are undependable. The original version of this package included F-15's and a number of other items. But when it became clear that, in the face of congressional opposition, the first proposal didn't stand a chance, the Saudis turned to the British, from whom they purchased 72 Tornado attack planes. This lost opportunity cost the United States at least $12 billion in arms sales. But more importantly, it was the beginning of what may be—if we reject this latest request from the Saudis—a weakening of our ties with Saudi Arabia, and therefore of our influence in the Middle East.

Influence is, after all, what we are debating today. It is not a question of whether or not the Saudis need these missiles. They say they need them, and they are willing to buy them in cash, for $34 million, without any U.S. credits or subsidies. It is not a question of whether or not the sale is a threat to Israeli security. The Israelis themselves concede that these missiles will not alter the current balance of power in the region, which is why they decided not to contest it. The question we are answering today is whether or not the Middle East interests of the United States are best served by a demonstration of continued United States commitment to assisting Saudi security. The President has determined that our broad policy goals in the region demand approval of this sale, and, for several reasons, I agree with him.

First, the Saudis face a clear threat from the radical, militaristic fundamentalism of Khomeini's Iran. I believe that we must back up Saudi Arabia, one of the region's strongest pro-Western countries, as it stands toe-to-toe with Iran's rabid anti-Americanism. Otherwise, we will have to look much more seriously at future, direct U.S. involvement in the Middle Eastern quagmire. I urge my colleagues to recall that 2 years ago Saudi pilots flying F-15's successfully defended an intrusion by Iranian aircraft. Would any of us here today prefer a scenario in which U.S. pilots in U.S. aircraft are forced to perform the same task?

Second, United States oil interests in the Persian Gulf call for continued United States-Saudi cooperation on defenses. For many years now the United States has pledged to defend the gulf against any attempts to cut off the flow of oil. Let us not forget in these days of low oil prices that the gulf, upon which we continue to depend for many of our petroleum needs, is hardly a secure place. Iran dominates the gulf geographically, with Saudi Arabia acting as the key counterbalance. To reject the Saudis when they seek our help in depending not only their own interests, but those of all countries dependent on gulf oil, is really to shoot ourselves in the foot.

Third, we must look at our role as a superpower attempting to influence events in the Middle East. I am not going to make the alarmist argument that disapproval of this sale will directly increase Soviet influence in the region. But there is no denying that our efforts to counter anti-American and Soviet-influenced states such as Syria rely heavily on our continued close ties with traditionally friendly states such as Saudi Arabia.

There are those who argue that we should disapprove this sale because the Saudis have ties to the Palestine Liberation Organization and to Syria, and because they condemned recent United States actions in Libya. My response is that the Saudis are Arabs, and that no United States policy will ever make them break their ties to the rest of the Arab world. But it is because of those ties between Saudi Arabia and other Arab states that the United States-Saudi relationship is so important. It allows us—unlike the Soviets—to work with both Arabs and Israelis, and to push for the elusive peace everyone so desires. The Saudis represent Arab moderation, and in such a fragile, volatile part of the world, that is nothing to throw away over one missile sale.

When we vote on this resolution I hope that all Senators will tally up the pros and cons of this arms sale. The arguments for the sale, which add up to continued, positive U.S. influence in the ever-shifting sands of Mideast politics, are compelling. I urge my colleagues to examine them closely and to give the President the support he needs.

Mr. LEAHY, Mr. President, I regret that, despite large majorities in the Senate and the House in opposition, the administration has chosen to go ahead and seek a vote on its proposal to sell advanced weapons to Saudi Arabia. The proposal is for over $350 million in advanced air-to-air missiles, air-to-sea missiles, and the highly sophisticated Stinger shoulder-fired ground-to-air missile. The administration's rationale for this transfer is to strengthen Saudi Arabia's defenses in the gulf region to deter Iranian aggression spilling over from the Iran-Iraq war. Unstated, but clearly a major—in fact, the real—reason is to send political signals to the parties in that vital strategic region that the United States remains firmly committed to Saudi security and will react against any attempt to attack or undermine that regime.

I do not dismiss this case lightly. Stability in the Persian Gulf is a vital interest to the United States, to NATO and to Japan. The oil flowing from Middle East wells fuels much of the industrial world, and the Saudi regime is an important guarantor of continued Western access to that oil. A strong, dependable Saudi Arabia is also a counterweight—at least in conjunction with other moderate Arab states—to a resurgent and aggressive Iran under the radical regime of the Ayatollah Khomeini. The administration hopes to strengthen this counterweight somewhat by this.

Part of the administrations's justification is also that the Saudis are a moderating factor in the Middle East equation concerning Israel. Allegedly, the Saudis counsel restraint and, presuming they have sufficient confidence in our backing, could help move forward the now moribund Middle East peace process for reconciliation between Israel, its Arab neighbors, and the Palestinian people.

Mr. President, as I said, I am prepared to consider the administration's arguments carefully. Let's look at them one by one. First, that these weapons will strengthen Saudi Arabia's military capabilities to defend itself, especially against Iran. So far, the United States has sold Saudi Arabia more than $50 billion in military equipment, with another $20 billion yet to be delivered. That is more than all our military sales to our NATO allies combined. Are we really to believe that some $350 million worth of additional missiles are going to represent a significant increment in Saudi capability? The fact is that the Saudis already have all these missile systems in their inventory, and this sale simply piles up more redundant, unusable weapons. For example, I understand the Saudis already have more than 30 Sidewinder air-to-air missiles for each advanced fighter aircraft in their Air Force. Compare that with the U.S. Air Force, which maintains only some 15 Sidewinders for each of its comparable aircraft.

The Stinger is an air defense weapon. Its function is to defend troops and ground facilities against air attack. The air threat these missiles are to defend against presumably comes from Iran, not Israel since we would not arm Saudi Arabia against Israel. Yet, Iran has less than 100 combat aircraft left after 5 years of war with Iraq, and it is questionable how many of these are still operational. To defend against this "threat" we have already sold the Saudis 400 Stingers. How many do they need? Frankly, the argument that this sale will actually bolster Saudi military capabilities just does not hold water.

What then of the argument that we need to send a strong political signal to the gulf states of continued commitment to Saudi security? If we have already sold $50 billion in military equipment, and have $20 billion more in the pipeline, just how important is another $350 million signal supposed to be? America's commitment to Saudi security arises from our vital national interest in stability and access to the Persian Gulf, not from the fact of some arms sales. If the Saudi regime needs these kinds of signals via arms sales from time to time, somehow our diplomats and leaders are not making sufficiently clear to them the facts of our parallel interests. I see no rational need to demonstrate these U.S. interests and commitment yet again through another token sale of military equipment which serves no meaningful defense requirement.

Finally, let us address perhaps the most significant administration argument—that we must keep arming the Saudis so they will contribute to reviving the Middle East peace process. Mr. President, in 1978 the suffering Middle East had an opportunity for peace with the Camp David peace accords and the Egypt-Israel Peace Treaty. What was "moderate" Saudi Arabia's contribution then? It was to denounce, attack, and undermine Camp David, to join with the Arab intransigents in destroying that fragile, fleeting opportunity for peace and some resolution of the plight of the Palestinian people.

Since that time, Saudi Arabia has continued to play the part of the so-called moderate Arab state, sending us quiet signals about restraining the Arab radicals, about working to promote movement back to the negotiating table. We kept sending them more arms so they would continue to show this "moderation." But, what has happened in practice? The Saudis have kept on financing the PLO, an organization dedicated to the destruction of Israel, and parts of which engage in terrorism against Israel, Western Europe, and the United States. The Saudis continue their relations with the radical Arab regimes, in some cases providing financing which keeps these states in the business of sponsoring terrorism and preventing the reemergence of a viable peace process which could lead to a settlement between Israel and its Arab neighbors.

Mr. President, I do not argue the Saudis do this out of malice or secret desire to support terrorism. I do say they do it out of a lack of courage. The Saudis are survivors in the Middle East cockpit. They strive for one goal . . . to keep the Saudi regime intact, and if that requires talking out of both sides of their mouths, they will do that without blinking an eye. Of course they would like to see real stability in the Middle East; the radical Arab regimes, the PLO, and the Islamic fundamentalists are, in the long run, a deadly threat to the conservative and feudalistic Saudi dynasty. But, they are not prepared to take any stand, any risk, to deflect that danger by joining the United States, Egypt, and Israel in sitting down at the negotiating table and finding a way to end 40 years of conflict. The true threat to the Saudis is the lack of peace and stability in the Middle East; yet they continue to play the game of wooing us one day, Syria the next, and then Yasir Arafat the following day.

Mr. President, I want to support a firm U.S. policy in the Middle East. Our interests really do coincide with those of Saudi Arabia, properly understood. We both need a peace settlement that removes the canker of Palestinian grievances, breeding ground of terrorism and radicalism. We both

need strong, moderate, pro-Western states, in the Middle East and the gulf, interested in economic development, political reform, and peaceful relations with their neighbors. However, I strongly believe we cannot buy this kind of policy with symbolic, token arms sales to a regime that will not act with the courage of its convictions.

This sale should not go through so long as Saudi Arabia is unwilling to work for peace in the Middle East. When I see real evidence—not backdoor diplomatic whispers of good intentions—that the Saudis are talking to the Jordanians, the Syrians, and the PLO, telling them they must sit down with Israel and negotiate, then and only then will I be prepared to vote for more arms for them. I urge all my colleagues to vote against the administration's proposal.

● Mr. BINGAMAN. Mr. President, I rise in support of Senate Joint Resolution 316, which is intended to prevent the administration from selling an additional $354 million in modern military equipment to the Government of Saudi Arabia. I am pleased to be a cosponsor of this resolution.

I am opposed to this sale for several reasons——

The sale will not make the Saudis any more sympathetic to our foreign policy goals.

The sale does not provide anything that will significantly add to the Saudis ability to protect themselves from any realistic military threats.

The sale will not provide any serious message to Iran, or anybody else, about our resolve to deal with military threats in the Persian Gulf region.

Instead, the sale will increase the threat to Israel, will increase the risk of terrorism, and will further erode any support for a Middle East peace process by showing our willingness to reward even the foes of the peace process.

During another arms sale debate in 1981, the President assured Congress that the Saudis would help to resolve the Arab-Israeli conflict. Unfortunately Saudi Arabia has done little or nothing in this direction. In fact, they have opposed the Camp David accords, opposed the 1982 Reagan peace initiatives, withheld their support from King Hussein's peace initiatives, helped to make Egypt the pariah of the Arab world and supported countries and groups, like the PLO and Syria, which sponsor terrorism worldwide. Saudi Arabia voted with the United States only 11.3 percent of the time in the United Nations during 1984. One doesn't need to be a student of foreign relations to predict the Saudi position on almost any international issue. If the United States is in favor of the issue, the Saudis are opposed to it—and vice versa.

Saudi Arabia is already the single largest recipient of United States defense goods in the world, and this administration is selling arms to them at a faster rate than ever before.

Since 1950, the United States Government has sold or transferred about $50 billion worth of military goods and services to the Saudis.

No other country has received over $12 billion during the same period.

More than $44 billion of arms have been sold to the Saudis since 1971, including nearly $22 billion sold or transferred since 1980.

Every time an arms sale to Saudi Arabia is proposed, it is publicized as the test of our friendship with the Saudi regime. But if $50 billion hasn't produced tangible Saudi support for Middle East peace efforts, why do we think we can buy it with another $354 million?

Mr. President, there is also no legitimate military rationale for this proposed arms sale. The Saudi Air Force already has 30 Sidewinder missiles for every one of their aircraft. If we allow this sale to go through, they will have 37 missiles for each aircraft. Compare this with Israel's stock of six missiles per plane, Greece's ratio of five and the Netherland's nine. In reality, the effect of this sale could be to stockpile antiaircraft missiles for the entire Arab world.

The only thing these Sidewinder missiles are good for is to shoot down other airplanes and the only threat to Saudi Arabia is Iran. The Iranians may now have less than 100 combat aircraft and the Saudis have 3,000 Sidewinders from previous United States sales. If the Saudis can't shoot down one Iranian aircraft with 30 missiles, I don't believe shipping more missiles to them will solve their problems.

In any case, all of the antiaircraft or antiship missiles in the world would not stop the kind of human wave ground attacks which Iran has practiced so diligently in their war against Iraq. Nor would the new shipment of missiles be useful against internal subversion, which is probably the second most likely threat to the Saudi Government.

I believe that we should also be concerned about the danger of having Stinger missiles fall into the hands of terrorists. The Stinger is a man-portable surface-to-air missile which, in addition to its military role, is perfectly suitable for shooting down civilian airliners. The proposed sale of 800 Stinger missiles and 200 launchers simply increases the chance that some of these missiles will fall into the wrong hands.

Mr. President, the most unconvincing argument in favor of the arms sale is that it demonstrates U.S. resolve to would-be aggressors in the region.

The kind of weapons the administration wants to sell does not deter ground attack or internal subversion, which are the real threats to Saudi security.

In any case, the new weapons would not be delivered to the Saudis until 1989—there's not much urgency or sense of commitment in that kind of schedule.

We have already sold the Saudis $50 billion worth of equipment. If that doesn't confirm our resolve, then we can't convince anybody by spending another $354 million.

Mr. President, all countries which are interested in achieving a lasting peace in the Middle East should carefully weigh the consequences of selling arms in the area. I certainly agree with the conclusion of the Senate Foreign Relations Committee report which says, "* * * the United States needs to consult and work with other arms suppliers lest all meaningful constraints of sales disappear." This theme exactly complements legislation (S. 1973) which I introduced last year, which would limit conventional arms sales to the Third World. That legislation would establish an international forum, modeled after the Coordinating Committee for Multilateral Security Export Controls and the Nuclear Suppliers Group. Such a commission could formulate guidelines to regulate international arms transfers. As I stated at the time I introduced that legislation, "* * * there is no greater real threat to world peace than the proliferation of massive quantities of highly sophisticated conventional weapons in regions of great instability. In an immediate sense, conventional arms sales may pose a greater danger than the more dramatic threat of nuclear proliferation." I still believe that statement.

In conclusion Mr. President, I do not think that the proposed sale to Saudi Arabia is necessary or useful in terms of United States foreign policy or national security objectives. I urge my colleagues to join me in opposing the sale and voting for the proposed resolution.●

PROPOSED SAUDI ARMS SALE DOES NOT PROMOTE MIDDLE EAST PEACE

Mr. BYRD. Mr. President, I oppose the proposed sale of $354 million in advanced missiles to Saudi Arabia because I am concerned that this arms transfer is not in the national security interests of the United States and will not make a meaningful contribution to promoting peace in the troubled Middle East.

It is for those reasons that I cosponsored Senate Joint Resolution 316, the resolution of disapproval for this sale.

The basic tests of any proposed arms sale to this unsettled region are: First whether it is in the overall best interests of the United States, and second, whether it will enhance the process of creating a lasting peace there in which

all Middle East nations might live within safe and secure borders.

The administration has failed to demonstrate convincingly that this proposed sale of high-technology weapons to such a violence-prone area meets these critical tests.

Furthermore, it is far from certain whether this sale is militarily justified, in terms of Saudi Arabia's legitimate security needs. One also must raise questions about the impact this sale could have on the security of the United States' strategic ally in the Middle East, Israel.

The administration contends that this sale is needed to encourage Saudi support for the Middle East peace process, to demonstrate the credibility of United States promises to support moderate Arab nations, and to help meet Saudi defense requirements in light of continuing instability in the Persian Gulf region due to the Iran-Iraq war.

However, Mr. President, there are no assurances that provision of these sophisticated and capable missiles somehow will embolden the kingdom to more aggressively promote a just and comprehensive peace settlement.

Other factors futher undermine the alleged legitimacy of the Saudi case for this sale.

First, the requested weapons would increase the potential military threat to Israel. That these missiles already are in the Saudi arsenal does not diminish the fact that provision of still more of them further complicates Israel's self-defense burdens.

Second, Saudi Arabia undercuts her claim as a leader of the moderate Arabs by continuing to bankroll the Palestine Liberation Organization and Syria, both chief promoters of Middle East terrorism against United States interests.

Third, since these missiles will not be delivered until 1989-91, they are of little help against the Iranian threat today.

The next few months should be a time when all who truly seek peace in the Middle East renew their efforts to resolve the regional stalemate and achieve a lasting solution that assures stability and fair resolutions of the outstanding issues. I am not unmindful of the security concerns of Saudi Arabia—concerns which the administration claims this arms package will address.

However, those concerns ultimately will be met more realistically and effectively through a negotiated framework of peace with Israel. Such a framework would be in the overall interests of the United States and of all the nations in the Middle East.

Rather than arms sales requests which do not contribute to achievement of a regional peace settlement, the United States now should redouble its efforts to create the conditions necessary for diplomatic progress toward such a negotiated outcome.

Instead of seeking simply to increase its military arsenal, Saudi Arabia also should increase its involvement in the difficult process to reach a durable, nonviolent resolution to the region's many disputes.

I particularly wish to express my admiration, Mr. President, for the persistence and leadership of the senior Senator from California, Mr. CRANSTON, on this matter. It is he, from virtually the moment that the administration announced its intention to pursue this sale of materiel to the Saudis, who has organized the opposition and brought us to this hour of decision on this issue.

He has been persuasive, committed, and stalwart in his actions, and is to be commended for the role he has played.

Mr. President, I urge passage of this resolution to disapprove the proposed arms sale to Saudi Arabia.

Mr. RIEGLE. Mr. President, as a cosponsor of Senate Joint Resolution 316, I rise in strong support of this resolution to disapprove the pending $354 million arms sale to Saudi Arabia.

I oppose this sale because I do not believe that our national security interests are well served by a Middle East policy which is driven by massive arms sales to Arab countries, and which is blind to other critically important policy considerations.

It is clear to me that this arms package will not advance the critically important U.S. foreign policy goal of achieving a Middle East peace settlement.

I am deeply concerned that what approval of this arms proposal will advance, however, is a follow-on request for a package of much more sophisticated armaments, which will be more destabilizing to the regional balance than the request we are considering today.

To avoid that chain of events, I believe it is vital that the Congress defeat this arms request, and defeat it soundly.

For the past 12 years, U.S. efforts have been focused on substantially upgrading and modernizing the entire Saudi Armed Forces. The most dramatic episode in this buildup occurred in 1978, when the sale of 65 F-15's was approved by a slim eight-vote margin.

At that time, Congress was given assurances that the sale of F-15's would not lead to the sale of AWACS airborne radar systems or equipment to increase the range of ground attack capabilities of the F-15's, and that the Saudi Air Force was not scheduled to get the advanced AIM-9L, all aspect Sidewinder missile.

That promise was quickly forgotten, and in 1981, the Reagan administration asked Congress to approve the sale of five AWACS aircraft and an F-15 enhancement package, comprised of conformal fuel tanks, to extend the range of the F-15's and AIM-9L missiles.

At the time of the 1981 sale, I came to this floor and argued that its approval would be a tragic mistake, and that it represented a massive escalation of the world's arms race, leading us away from negotiations and peace talks and toward armed conflict.

I think it is important to note that our biggest breakthroughs in the search for Middle East peace occurred during the 1970's, at a time when arms sales to the region were less than half of what they are today.

With respect to Saudi Arabia alone, sales of defense equipment, supplies, service, and construction have reached a total of $50 billion over the past 35 years. In contrast, no other country in the world has received more than $12 billion over that same period.

In fact, Saudi Arabia has become the single largest purchaser of United States defense goods and services in the world—receiving 25 percent of all United States arms sales.

Today, we are asked to approve a request for 2,600 additional missiles for the Saudi arsenal at a cost of $354 million.

Specifically, the package includes 995 AIM-9L Sidewinder missiles; 671 AIM-9P4 Sidewinder air-to-air missiles; 800 shoulder-launched Stinger air defense guided missiles; and 100 air-launched Harpoon antiship missiles.

The search for a military rationale for this sale is a difficult one.

First, the Saudis already have huge arsenals of missiles—3,000 Sidewinder missiles, 400 Stingers, and 100 Harpoon missiles—and this sale would give them far more than they could possibly need for defensive purposes.

With these additional missiles, the Saudi arsenal would contain a total of 4,600 Sidewinders, or about 80 for every Iranian jet fighter. In recent combat over Lebanon, the Israelis used an average of only 1.2 Sidewinders to down each Syrian fighter jet. Seen another way, the Saudis would have 37 Sidewinders for each of their F-15 aircraft, compared to a ratio of 9 to 1 among NATO nations.

Second, the claim that the Saudis need to counter a threat from Iran is highly exaggerated, given the fact that the 60 aircraft remaining in the Iranian Air Force are entirely occupied in fighting the war with Iraq. In terms of airpower, the Saudis face relatively weak neighbors. Currently, the Saudis have more than 30 Sidewinder missiles for every Iranian combat aircraft. This sale would increase that ratio from 30:1 to 47:1.

If there is any threat from Iran, it comes from their land forces which are also engaged in massive combat with Iraq. Selling the Saudis air de-

fense missiles will not improve their ability to counter an Iranian ground attack.

Third, any immediate threat from Iran or elsewhere will not be addressed by this package which is not scheduled for delivery until 1989.

Finally, the kind of internal subversion which might bring down the Saudi regime will not be prevented by larger arsenals of missiles.

There is, however, a real danger in providing Stinger shoulder-launched missiles to the Saudis. If the United States is serious about combating terrorism, it makes no sense to provide such state-of-the-art weapons as Stinger missiles to the Saudis, given Saudi support for Libya and terrorist groups such as the PLO.

The search for a political justification is equally mystifying. In fact, it is the absence of a sound political justification for this sale, rather than its composition, that prompted a majority of the Senate Foreign Relations Committee to conclude that further sales of weapons and military services to Saudi Arabia are unjustified.

As we consider this $354 billion arms package today, the Saudis await delivery of five of the AWACS planes approved in 1981.

It is therefore useful to review the record to determine whether the planes are being delivered under the conditions agreed to by the President and the Congress 5 years ago. Of particular concern is the extent to which the conditions cited by the President have been met with regard to Saudi assistance in achieving progress toward a comprehensive peace settlement.

At that time, President Reagan assured the Congress that if the five AWACS surveillance planes were provided, the Saudis would reciprocate by providing substantial assistance toward the peaceful resolution of the Arab-Israeli conflict.

Mr. President, that pledge has been left unfulfilled. In fact Saudi actions over the past 5 years tell quite a different story.

They have opposed the Camp David peace process and have refused to endorse key U.N. resolutions calling for negotiations between Arab States and Israel.

They have opposed the 1982 Reagan peace plan.

They have opposed the 1983 United States-backed Lebanon-Israel peace pact.

They have opposed United States action against Libya's Qadhafi, and have offered to make good any Libyan economic losses resulting from any United States economic embargo.

They have opposed the recent Peres-Hussein peace initiative.

Saudi intentions become even more clear when these actions are viewed together with other Saudi positions and undertakings which have not contributed to the cause of peace in the Middle East. These actions include:

Support for the PLO—both financially and diplomatically;

Support for Syrian domination of Lebanon;

Support for the Arab world's continuing ostracism of Egypt; and

Leadership in the Arab boycott of Israel and opposition to any Arab moves toward accommodation with Israel.

In its report, the Senate Foreign Relations Committee notes that:

> When measured by reasonable standards with regard to the peace efforts, most members concluded that the Saudis have fallen short of the mark.

Concerning Saudi Arabia's role in promoting the peace process, the committee report goes on to note:

> * * * Although the administration could point to Saudi involvement in various group efforts, the caveat was applied * * * that these efforts have been made "within the context of the Arab consensus." In effect, this represents an acknowledgment of extremely limited contribution to peace over the course of many difficult years in which decisive, vigorous leadership by the Saudis could have made a definite difference.

Mr. President, if it is security we seek for our friends in the Middle East, this arms sale will not secure it. neither will this sale bring closer the resolution of the long-festering antagonisms which continue to fuel the conflict which makes achievement of Middle East peace as illusive as ever.

As suggested in the committee's report, if the price of constructive involvement in the peace process is too high for the Saudis to pay, then our policies toward that country ought to move away from that of arms supplier, to a more constructive and constrained relationship.

Mr. President, the Senate should follow the advice of a majority of members of the Senate Foreign Relations Committee, abandon "a business-as-usual approach to our dealings with Middle East nations," and prevent this sale by approving the resolution of disapproval before us.

Mr. GLENN. Mr. President, I rise to join the majority of my colleagues who are opposing the sale of AIM-9L, Harpoon, and Stinger missiles to Saudi Arabia.

Once again the administration has made approval of this arms sale a litmus test of our friendship with Saudi Arabia. But I believe that friendship is a two-way street and that there is a principle at stake here that transcends the particulars of this sale. We expect, and rightly so, that our friends will be as concerned about our security as we are about theirs. There is no question that the explosive environment in the Middle East impinges directly on U.S. national security interests, not to mention those of our friend and ally, Israel. A peaceful settlement of the Arab-Israeli dispute is a paramount, long-standing and fundamental U.S. security objective. However, the Saudis have shown little, if any, interest in working in a constructive way with us or any others to settle this dispute.

Since the conclusion of the Camp David agreement the United States has sought to expand that Middle East peace process by encouraging other Arab nations to come forward, as Egypt did, to negotiate for peace. To date not one has done so. Most unfortunately, the Saudis have not proved particularly willing to use their considerable influence in support of the realization of this major U.S. objective. Very recently, for example, they elected not to use their leverage with Arafat to promote King Hussein's peace initiative; the initiative is now stalemated because the King apparently determined that he could not go forward without PLO concurrence. To approve this arms sale would suggest that we are satisfied with Saudi efforts to move the peace process forward. I am not.

My opposition to this sale does not mean that I am unconcerned about legitimate Saudi self-defense requirements. However, arms sales are a foreign policy tool and as such should be used to promote U.S. foreign policy interests. A mutually beneficial relationship is based on a commonality of interests which implies both benefits and obligations. To reward Saudi Arabia for refusing to help move the Middle East peace process forward is not in the U.S. national interest. And in my judgment, no arms sale should ever go forward to any Arab country unless we can be absolutely sure that those weapons will always be pointed in the right direction—and never against the State of Israel.

I urge my colleagues to approve this resolution of disapproval.

Mr. KENNEDY. Mr. President, today the Senate will vote on a resolution disapproving the sale of sophisticated missiles to Saudi Arabia. The resolution already has a total of 66 cosponsors—42 Democrats, 24 Republicans—and with such broad bipartisan support I think it is safe to say that for the first time in the history of the U.S. Senate, we will vote down a major arms sales request of the administration.

This historic vote will send a clear message to the administration—America wants a peace policy in the Middle East—not an arms policy. Congress will not permit arms sales to any enemy of Israel unless and until that nation accepts the existence of Israel and begins direct negotiations for a lasting peace with Israel.

Opponents of this sale do not seek another confrontation with the administration. But neither can we remain

silent while the administration pursues a reckless course that could endanger Israel and her people in a future confrontation in the Middle East.

Saudi Arabia has received $44 billion in arms and other military aid from the United States since 1971. Saudi Arabia already has adequate stockpiles of weapons for its own defense. This latest request for Sidewinders, Stingers, and Harpoons can only escalate the already dangerous arms race in the Middle East.

The addition of these Sidewinder missiles will bring the total to nearly 5,500—providing a far greater number of missiles per plane than that of any of our allies. These heat-seeking missiles are extremely effective—most of the 85 Syrian Mig's downed in Lebanon were destroyed by Sidewinders—with an accuracy rate of 80 percent. These missiles also enabled the British to destroy 19 Argentine aircraft in the Falklands War—using only 23 Sidewinders.

The Stinger missiles are portable weapons which can be carried and fired by individual soldiers, and which have a range of 5,000 meters and can hit planes at altitudes of up to 3,000 meters; a single missile could destroy a civilian aircraft. We need only remind ourselves of the tragic death of the Klug family in the skies over Greece last month to realize the havoc terrorists could cause should these weapons fall into their hands.

The air-launched Harpoon is an antiship missile with a range of up to 85 nautical miles; it is not yet in the Saudi inventory. These new weapons would be used on Saudi Arabian F-15 aircraft and possibly the newly acquired British Tornados and would enhance the Saudi capacity to control the sealanes around it.

Finally, Saudi Arabia has not lived up to the specific condition set down in writing by President Reagan in 1981 that no future advanced arms sales to Saudi Arabia would take place until significant progress toward peace in the region is not only accomplished—but accomplished with the "substantial assistance" of Saudi Arabia.

Yet the Saudis have consistently opposed American peace initiatives since the AWAC's sale including the Reagan plan in 1982, the May 17, 1983 Lebanon-Israel accord, and the Camp David peace process. And they continue to bankroll the PLO and Syria. Clearly, there has been no progress toward peace and no Saudi assistance—and the obvious question is whether the administration meant what it said in 1981.

It is time for this administration to direct its efforts to move the peace process forward between Israel and her neighbors, not to continue trying to move one arms deal after another through Congress. No further sophisticated weapons should be sold to the Saudis until that nation accepts the existence of Israel and begins direct negotiations for peace. Unless this fundamental condition is met, this latest arms deal should be rejected by Congress.

Mr. THURMOND, Mr. President, I rise in opposition to the resolution of disapproval. The proposed arms sale to Saudi Arabia is consistent with our national security objectives, the security of the State of Israel, and may help prevent a widening of the war between Iran and Iraq.

The arms are needed for Saudi defense and in no way pose a threat to Israel. Iran has crossed the Shatt al-Arab River and is now close to the border of Kuwait. Any widening of Iranian offensives could have disastrous consequences for Kuwait and all of the Peninsular Arabs. I need not remind anyone that this could in turn lead to a shutoff of Persian Gulf oil.

In the past, our support of Saudi self defense needs has served as a deterrent to the radical regime in Iran. A negative action at this time by the U.S. Congress could encourage Iran to widen its war with Iraq. A positive response by the Congress, however, will send a strong signal to Iran that the United States stands behind Saudi Arabia.

Mr. President, the Saudis also face a serious threat on their southern border. The recent Soviet engineered destabilization of the regime in South Yemen will prevent improvements in gulf state relations with that country and will ensure that the government of that country remains in the radical camp. These continued twin threats to our friends in the gulf cause them great concern which may be heightened by congressional opposition to this sale.

The arms contained in the President's notification are a modest and prudent investment in regional stability and security, and support the strategic interests of the United States and our European allies.

President Carter committed the United States to maintaining the free flow of oil from the gulf, and it is still in our best interests to support the security of moderate states in the region.

To their credit the Saudis have taken the lead in protecting the shipping and oil installations of the upper gulf. Evidence of this came in 1984 when the Saudis shot down an intruding Iranian fighter plane. This is an excellent example of the defensive use of the equipment we have supplied the Saudis and has helped deter further such attacks by Iran against gulf states.

The Sidewinder, Harpoon and Stinger missiles contained in this proposed sale will further strengthen Saudi defenses and pose no risk to Israel. The Israelis will continue to maintain a qualitative military edge in the region.

It does not serve our interests, nor those of Israel, to deny such sales and allow other nations to become the principal supplier of arms to Arab Gulf States. Other countries will pose none of the safeguards on their military sales that we do. This could seriously impair Israel's qualitative advantage.

The British Tornado sale to the Saudis cost the United States an estimated $12 billion in lost military sales and support. This cost us money and jobs and did absolutely nothing to advance the security interests of Israel.

Mr. President, I feel that the U.S. Government should be allowed to proceed with this sale because it is important to our security, and the security of the entire region. I urge all of my colleagues to oppose this resolution.

Mr. PACKWOOD. Mr. President, I rise today in support of Senate Joint Resolution 316, the joint resolution to block the sale of missiles to Saudi Arabia.

I am opposed to the proposed sale of $354 million worth of advanced missiles to Saudi Arabia. I do not believe the sale is in the best interest of the United States, nor in the interest of our allies and friends in the Middle East.

Mr. President, I am not alone in this belief. Senate Joint Resolution 316 was introduced on April 9, 1986, with 61 cosponsors. Currently, 66 Senators are cosponsors of this joint resolution. If passed and signed into law, this resolution would prohibit the sale of missiles to Saudi Arabia. The message is clear—Congress does not find adequate justification to proceed with the administration's proposed sale at this time.

Mr. President, the bottom line is that we should not sell additional arms to Saudi Arabia until they join the peace process and make peace with Israel. Since 1971, we have provided Saudi Arabia with over $44 billion of our most advanced weaponry, related defense services and supplies. What have we gained from Saudi Arabia in return?

To date, Saudi Arabia has not only failed to support American efforts to promote peace in the region, but they have worked actively against us. Saudi Arabia continues to fund the PLO and Syria, which are responsible for terrorist acts around the world. The Saudis have consistently resisted the efforts of other Arab countries to make peace with Israel—first Egypt and now Jordan. Most recently, the Saudis have expressed support, openly and through Saudi leadership in Pan-Arab conferences, for Libya in the wake of the U.S. antiterrorist efforts.

Mr. President, I find it astonishing that we should be asked to provide a

continual supply of arms to Saudi Arabia without asking anything in return. What is wrong with asking Saudi Arabia to participate in the peace process? What is wrong with making their participation a condition for receiving our most advanced weapons—weapons which in a time or war could be used against our allies and friends, or wind up in the hands of terrorists committed to fighting American interests in the region? Mr. President, I believe we've been sending the wrong signal—that there is no price for our arms—to Saudi Arabia and others in the region. The time has come to change this.

Our interests in the Middle East are best served by encouraging peace through negotiations rather than contributing further to instability in the region through another arms sale. I say let's wait to sell more arms to Saudi Arabia until they, like Egypt, make peace with Israel and support American efforts to reach a lasting peace in the region.

Mr. President, I urge my colleagues to support this resolution and oppose the sale of additional weapons to Saudi Arabia.

Mr. SASSER. Mr. President, I rise in support of Senate Joint Resolution 316, disapproving the proposed sale of advanced weaponry to Saudi Arabia. This package includes 995 AIM 9L Sidewinder missiles, 671 AIM 9P4 Sidewinders, 200 Stinger ground-to-air missiles with another 600 reloads, and 100 Harpoon air-to-sea missiles.

These armaments represent a major transfer of American military technology to a region and to a government that is not marked by the kind of stability that promises secure handling of that technology. There have been numerous cases in the past where U.S.-supplied weaponry has been found in the hands of third parties, whose interests are inimical to those of the United States. The magnitude of this sale, and the current escalation of regional tensions, simply invites further diversion of sensitive military equipment to our adversaries.

Beyond the practical problem of ensuring that these weapons would be distributed in a manner supportive of U.S. interests, there are significant economic considerations involved.

To force a major increase in defense spending in the region—which the Saudi sale inevitably would require—would threaten the struggling economies of Israel and of the Saudis' Arab neighbors, some of whom hold out a long-range hope of cooperation in future negotiations. The sale would thus mean the diversion of valuable resources away from the cooperative efforts that are so critical to all our countries.

As we have so often repeated in Congress, a fundamental element of national security is economic stability. It is no less true in the Middle East than in the United States.

Mr. President, I believe these arguments against such a weapons package are more than sufficient. The current climate would seem to indicate that there will never be anything but hatred and bloodshed in the Middle East. Moving forward with the Saudi arms sale at this time would only further this perception.

Yet, I believe there is a measure of hope for the future. It is hope based on the development of strong and effective bonds among the peoples of the Middle East. That would sound like an impossible, naive hope if it were not for the facts. The fact that those bonds are developing is frequently overlooked in an atmosphere like today's, when the headlines are filled with threats and counterthreats, bombs and the death of innocent civilians.

Just this past Sunday, the Middle East Regional Cooperation Program opened a 3-day conference, involving 50 Israeli and Egyptian scientists. This program, one of the many fruitful results of the Camp David accords, has brought forward more than 1,000 scientists from both countries since its inception. In today's climate of highly charged headlines decrying the violence of our times, it is profoundly encouraging to know that the cooperative efforts of this group have yielded substantial advances in combating infectious diseases and in developments in marine science and desert agriculture.

This is the kind of involvement the United States should have in promoting stability in the Middle East.

Mr. President, the road to the future need not be an accelerating exchange of barbarism, a never-ending spiral of more weapons. The United States can and must use whatever leverage we have in the Middle East to induce the development of a cooperative view of the future.

Mr. President, the proposal for a $354 million weapons package for Saudi Arabia could not be more poorly timed. I urge my colleagues to oppose this sale, and to support the resolution of disapproval.

Mr. McCONNELL. Mr. President, over the past weeks, I have listened to arguments presented by many of my colleagues and members of the administration both supporting and opposing this sale of arms to Saudi Arabia. I have weighed these points of view and would like to review the reasons why I shall vote to support the President's request.

I believe both Washington and Riyadh place considerable emphasis on regional stability and containing radical, violent influences in the Persian Gulf. The most obvious enemy to regional peace and stability is Iran. It is clear Ayatollah Khomeini is dedicated to extending his reach and branding his version of radical Islam on every nation in the gulf. Anyone who doubts this commitment only has to look at the consequences of the war Iran is waging to bring down the Iraqi government. Human life has no value in Iran's expansionist quest. The Ayatollah has sent children to the battlefield to serve as human minesweepers. He has glorified suicide bombing missions. And, he has lost over 40,000 Iranian lives.

While the tremendous toll of human lives in the war is staggering, I am equally concerned by the escalation in attacks against gulf shipping. Vessels of all nations have been indiscriminately struck. I wonder whether it is just a matter of time before a United States ship is bombed and Americans suffer at Iranian hands once again? I also wonder how long this campaign can continue without affecting the flow of oil? I think it is important to keep in mind over one-third the world's oil supply currently flows through the gulf. More importantly, Saudi Arabia has one-fourth the world's reserves which only increases its significance over time. The threat to our oil supply is both immediate and long term.

In recent months, Iran's blind resolve has been hardened by its success in taking and holding territory in southern Iraq. The success of this campaign, combined with the continuation of both Iranian and Iraqi air attacks against shipping vessels transiting the Gulf, raise obvious concerns about the possibility of the war widening and drawing in other states.

The question before Congress and the administration is what responsibility does the United States want to exercise given this threat? More specifically, we must ask ourselves whether this arms sale strengthens prospects for regional stability while serving our national interests?

I believe the arms the President intends to sell Saudi Arabia specifically target the threat posed by Iran and the prospect of the war expanding. The package primarily consists of *Sidewinder* missiles to defeat an Iranian air attack against Saudi oil or military installations. While some of my colleagues discount Iran's ability to launch such attack, I remind them that Saudi Arabia is 10 minutes' flying time from Iran. It would only take one suicide mission to inflict serious damage against a Saudi oil installation. In June 1984, the Saudis demonstrated both the capability and the need for this missile when they shot down an Iranian F-4 which had violated Saudi air space. The package also includes air-to-sea missiles critical for the defense of shipping and ground-to-air missiles which will be used to pro-

tect strategic economic and military installations.

The Saudi requirement for these weapons is not new. In fact, the Saudi inventory already includes these missiles. This sale will augment existing stockpiles in order to fortify Saudi Arabia as it faces an increasing threat. The sale will not add new military capabilities nor will it change the nature of the military mission Saudi Arabia can carry out. The package simply strengthens their current capability to protect Saudi Arabia, its neighbors, and free passage of commercial shipping vessels in the gulf.

Mr. President, I conclude my remarks by noting that I would not support this sale if I believed it threatened the interests we share with our ally and partner, Israel. I do not think Israel's military edge is eroded by this sale. Moreover, it is in our mutual interests to provide Saudi Arabia with the defensive capability it requires to withstand pressure from radical confrontation states. We do not need to fuel Qadhafi's anti-American fire using the Saudis as tinder. What purpose does it serve to put Saudi Arabia in the position of having to justify to Libya or Syria its relations with the United States? The failure to conclude this sale will reinforce the radical Arab States' belief that we do not seek an even-handed policy in the Middle East.

I believe Congress and the President are committed to peace and stability in the Middle East. The sale of these weapons to Saudi Arabia will strengthen the Persian Gulf states' defense capability, thus deterring the prospect of the war widening. I am not convinced peace in the Middle East is at hand, but I do believe Congress has it within its power to prevent an escalation in war.

Mr. HELMS. Mr. President, I shall not take the time of the Senate to explain my rationale for supporting Senate Joint Resolution 316. I amply stated opposition in my additional views, a copy of which is on the desk of each Senator.

I ask unanimous consent that my additional views be printed in the RECORD.

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

ADDITIONAL VIEWS OF SENATOR JESSE HELMS

At the present time, I do not favor the sales to Saudi Arabia. During the hearing on April 23, I asked numerous questions of the representatives both of the State Department and the Defense Department about frequent reports of the continued support by Saudi Arabia for terrorists operations of the PLO. These reports are persistent and persuasive.

I voted against reporting the resolution to disallow sales because I was dissatisfied with having to deal with this complex issue on an expedited schedule. I was even more dissatisfied that the Administration failed to deal with the issues I raised during the hearing on a forthright basis. The examples I was able to present with the limited resources available to an individual Senator were necessarily fragmentary. I asked for a report, in writing, which would confirm or deny the total amounts of assistance provided by Saudi Arabia by the terrorist groups, so that Senators could exercise informed judgment.

The Administration did not provide these facts. I was convinced that the committee should not act without complete information, and I was not yet ready to vote to disallow the sale. Issues should be decided on principle, and not on the basis of pique against bureaucrats.

Nevertheless, the timetable will require us to act on this issue very shortly on the Senate floor. I leave open the possibility that the Administration may provide information that is persuasive for rejecting the resolution, but nothing I now know would suggest that it should be rejected. My present disposition is to vote in favor of disallowing the arms sale when the issue comes to the Senate floor.

I asked a number of questions relative to reports in the press of continued Saudi financial support to the PLO and the Palestine National Fund, even though the Palestine National Fund's own reports complained that Yassir Arafat had diverted the Saudi payments to the PLO military account. Yet even though Saudi Arabia knew the funds were being diverted to military purposes, the Saudis continued to send more money.

I asked about alleged diversion of U.S. weaponry to the PLO, particularly the issue of 75 mm shells found in the hands of the PLO in Lebanon, shells which had been manufactured in the U.S. Army Ordinance Plant and delivered to Saudi Arabia. I supplied the committee with photographs of crated 75 mm ammunition, as well as a shipping tag showing the shipment numbers. The State Department apparently did not feel that it was necessary to check out these numbers.

I am still waiting for detailed confirmation or denial of both categories of information. The reports I cited were from the press and from monitoring of foreign broadcasts, as well as some published documents of the PLO. But I want an official confirmation, in writing, from the U.S. Government. I want to know the total of actual Saudi support for the Palestine National Fund and the PLO, not just generalizations based on pledges of support. I want to know about the diversions of the 75 mm shells. I want to know of any other examples of diversion.

I also asked for information about Saudi arms purchases from other countries for delivery to the PLO.

We heard a lot of talk from the Administration about how the Saudis are proponents of peace in the Middle East. Well, perhaps they are, but the record apparently shows that they are also supporting terrorist activities.

On the other hand, I am also disturbed by reports in the news a few days ago of an attempted $2 billion diversion of U.S. arms to Iran, including allegations from unnamed Administration officials that the Israeli Government had some knowledge of the plot. Does the Administration really believe that the Israel Government has some complicity in shipping arms to Iran at the same time we are being asked to sell arms to the Saudis to counteract Iranian threats of aggression?

I think that U.S. policy still needs a lot of explanation, and it appears that the only way we will get it is to debate these issues on the Senate floor.

Mr. DURENBERGER. Mr. President, I rise to urge disapproval of the proposed arms sale to Saudi Arabia.

I do so because the administration has once again failed to explain how and why a sale of arms will further our foreign policy objectives in the Middle East. Without such an explanation, I simply do not understand why we repeat this contentious process of debate which divides our country, our Congress, and even our administration.

We are told that these air defense and air-to-surface missiles are absolutely necessary to protect Saudi Arabia from external threats—presumably, Iran and South Yemen. Analysis, however, does not support this argument. Iran is engaged in a full-scale war with Iraq and possesses only marginal air power. The ability of Iran to strike Saudi targets exists, of course; but they would gain nothing—and lose a great deal. Current Saudi air defense capability is sizable and modern. Very little effect on Saudi oil production capacity could be achieved by a surprise attack—and a sustained air campaign is not within Iran's capability. Yemen has virtually no capability whatever to threaten Saudi economic targets.

We are told that this sale is necessary as a sign of United States commitment to the Saudi Government. We hear that the real value of the sale is not military but psychological; that the sale represents necessary support to the ruling family at a time when internal pressures against the family may be growing. We are told failure to approve this sale would be abandonment of a staunch friend and will contribute to destabilization of this strategic area.

There is no serious doubt anywhere in the world about our commitment to and support of the Saudi Government, least of all in the minds of those who rule Saudi Arabia. It is not, by the way, the Saudis who make this argument. They do not see any destabilization or abandonment in this equation at all. It is the administration supporters who make this argument. The irony is that such linkage between overall Saudi-United States relations and sale of a few missiles trivializes what is fundamentally a strong relation built on mutual advantage. It is the enemies of the current Saudi Government, not their friends, who raise the subject of potential instability. As we do so often, it seems we are being asked to support a fig leaf for a policy rather than a genuine implement of policy. We cannot discharge our commitment to Saudi Arabia by selling them a few missiles. The administration cannot use this sale as an excuse

to ignore the greater issue of peace in the Middle East. We cannot approve this transfer, feel comfortable that we have done our duty, and then complacently dismiss the growing instability and the root economic and political reality behind it. Arms sales are not a policy in themselves. Approval of this proposal perpetuates the myth that they are. And we have no farther to search for proof than earlier administrations' arms sales policies in Iran.

Let us, therefore, signal by our vote of disapproval our conviction that the administration must put greater effort into its policy implementation if it wants the support of the American people.

Mr. TRIBLE. Mr. President, I rise in support of the resolution of disapproval. I am unpersuaded that either American interests or the cause of peace are served by the sale of additional advanced weaponry to Saudi Arabia. In my view, the sale is poorly timed and unnecessary.

The case for the sale of these arms has yet to be made. Neither the peace process nor the Saudis' security interests are enhanced by this proposal.

The benchmark of arms sales for the United States must be the concrete demonstration of a nation's commitment to peace in the region. Indeed, this criterion of being of "substantial assistance" in the peace process was enunciated by the President during debate on the AWACS sale and later embodied in the 1986-87 Foreign Assistance Authorization Act. Regrettably, the Saudis have, time and again, failed to advance the prospects for peace.

In fact, Saudi wealth and influence have merely contributed to the maintenance of the status quo.

The Saudis have contributed substantial financial support to both Syria and the PLO. The most militant opponents of peace in the region benefit from Saudi largess. Directly or indirectly, Saudi funds underwrite international terrorism and foster resistance to the peace process.

Moreover, Saudi Arabia has failed to lend visible support to the recent peace initiatives of King Hussein and it stands with radical Arab States in its unwillingness to extend diplomatic recognition to Egypt. Those nations who have taken risk receive cold comfort from Riyahd.

Some suggest that the sale is a test of our reliability and credibility. While I am skeptical of this, our reliability and credibility in the region depend, first and foremost, on our unswerving commitment to those nations which have the courage and wisdom to take risks for peace. Rewarding an unwillingness to support U.S. policy initiatives seems to me to call U.S. reliability and credibility into question.

Mr. President, I appreciate the value of a productive and mutually beneficial relationship with Saudi Arabia and I fully recognize the strategic importance of a free flow of oil from the Persian Gulf. However, I do not believe the introduction of additional arms will contribute to stability or to peace and I urge my colleagues to support this resolution.

Mr. BIDEN. Mr. President, United States policy toward Saudi Arabia is premised upon a myth. That myth holds that the Saudis can be relied upon to make any significant move toward peace in the Middle East.

The myth places a heavy—indeed an unwieldy—burden upon the Saudis. They cannot shoulder it. The regime is an anachronism, threatened by Islamic fundamentalism and Arab radicalism. We are asking too much of the Saudi rulers, and they cannot deliver, for fear that support for our efforts would bring down the House of Saud.

While this particular package will not drastically change the military balance in the region, there are two compelling reasons that I rise in opposition to the sale and in support of the resolution of disapproval.

First, the Saudis cannot realistically do any of the things that we wish they would do for us in the Middle East. Indeed, they actively thwart U.S. efforts to promote peace in the region.

Specifically, they publicly support Qadhafi and his terrorists, bankroll the Syrians and the PLO, and continue to oppose the vitally important Camp David process.

Second, arms sales cannot substitute for a Middle East policy. I oppose this sale because it is a reflection of the lack of a coherent strategy on the part of the administration for dealing with problems in the region.

The promotion of stability in the Persian Gulf—which is the ostensible rationale for this sale—should not take place at the expense of our major friend and ally in the region. Our preeminent commitment is and must remain the peaceful resolution of the Arab-Israeli conflict. That long-range goal must never be subordinated to short-term considerations. The negative fallout from the sale would far outweigh any plausible positive effect it might have on prospects for stability and peace in the troubled Middle East.

Mr. SIMPSON. Mr. President, I presently oppose Senate Joint Resolution 316, which disapproves of the proposed sale of missiles and other defense services to Saudi Arabia. This proposed sale is being made by the administration in light of the administration's commitment to ensure that any sale of arms contributes directly to the stability and security of the area and enhances the atmosphere and prospects for our progress toward peace.

The administration has requested a package of arms which includes 1,666 Sidewinder air-to-air missiles, 200 shoulder-held Stinger ground-to-air missiles, and 100 Harpoon air-to-sea missiles. These defensive weapons do not pose an additional threat to Israel because these items do not introduce new weapons systems or new capabilities in the Saudi arsenal. This package is designed to maintain the Saudi's defensive capabilities into the next decade by providing replacements for an aging arsenal of missiles. This package is considerably scaled down from the initial request sought by Saudi Arabia.

In this debate, it is vital to remember that the threat to Saudi Arabia has increased dramatically in recent months with Iranian forces positioned in Iraq and near strategic sea lanes in Kuwait. The recent Iranian incursion into Kurdistan is a strong indication that Iran is preparing additional attacks along the front, which would further endanger Kuwait. Saudi Arabia is pivital in protecting our strategic national interests in the region and it is vital that we show a sign of support to Saudi Arabia that we are concerned about their ability to defend themselves. We also need to send a signal to Iran that we will not idly sit by while Iran consolidates and strengthens its position in the region.

Saudi Arabia also faces instability along its southern border with Soviet interference in South Yemen. It is important that we respond to the high-level and increasingly urgent appeals by the Saudi Government and respond positively to their request. It is also important to our credibility with the other Arab nations that the United States show a balanced approach toward regional security.

If the United States fails to go ahead with the sale there are certainly plenty of other nations who are quite willing to step in with other types of armaments. Not only would the United States lose the $354 million on the sale, but, far more importantly, we would lose the ability to monitor the armaments if another nation closes the sale.

I am also well aware of the fact that Israel opposes the sale—as they would to any nation with which they are not at peace—but it has also been made very clear that the Government of Israel does not perceive it as posing a direct security threat to Israel and that they are aware of the Saudi's delicate position with regard to the Iran-Iraq war.

I am also well aware of the argument put forth by supporters of this resolution that Saudi Arabia has not done enough to further the peace process in that region. It is argued that Saudi Arabia has in fact been hostile to United States interests in the Middle East by supporting terrorists and by not supporting the Camp

David Accords. However, it must be noted that the Saudis have indeed been supportive of United States interests but that they must take a lower profile due to their strategic position in the Arab world. I believe that to deny Saudi Arabia the missiles would only increase resistance against the United States by other Arab nations at a time when we need to be building bridges in the region.

I urge my colleagues to oppose this resolution which would block the sale of this limited amount of missiles to Saudi Arabia.

(By request of Mr. DOLE, the following statement was ordered to be printed at this point in the RECORD:)

● Mrs. HAWKINS. Mr. President, I rise today to speak in favor of the measure before us to forbid the sale of missiles to the Kingdom of Saudi Arabia. As my colleagues know, this sale package proposed by the administration includes 995 AIM 9L Sidewinder air-to-air missiles, 671 AIM 9P4 Sidewinder air-to-air missiles, 200 Stinger ground-to-air missiles with 600 reloads, and 100 Harpoon air-to-sea missiles. The total value of the sale is $354 million. The administration has justified this sale proposal on the basis of several assertions. These assertions include the need to provide the Saudis the means to defend themselves against Iranian aggression, the need to give the Saudis the means to prevent the spread of instability from South Yemen, the need to protect the flow of oil from the Persian Gulf, and the need to maintain a good working relationship with so-called moderate Arab countries.

Mr. President, I must oppose this sale package on the basis of a very simple principle. I believe that it is inappropriate for the United States to sell arms to a country that is technically at war with Israel. Also, I believe that the administration is overstating the nature of the threats to Saudi Arabia and the value of a close Saudi-American relationship given current Saudi behavior. I believe that Saudi Arabia is fully capable of handling any spillover from the conflict between Iraq and Iran or from the instability in South Yemen. Saudi Arabia has stood against the interests of the United States in the Middle East on several important occasions. The Saudis oppose the Camp David accords and have provided funding to the PLO, Libya, and Syria. As a Senator who voted against the AWACS sale, I believe that the Saudis have failed to give substantial assistance toward the completion of a Middle East peace agreement. While the current price of oil is low, we may be forgetting how the Saudis profited at our expense during the oil crises of 1974 and 1979.

Saudi Arabia, under the current circumstances, faces a choice. Clearly, the Saudis believe that they need sophisticated weapons to defend their national interests against a number of threats. Obviously, the Saudis also feel that it is important to have the support and approval of the United States in facing those threats, that is why they have approached us for obtaining these weapons as opposed to other suppliers. While I believe that they are overstating the threats they face, if the Saudis are really concerned about these threats and believe that they need the United States to support their efforts, they must prove their commitment to a just Mideast peace. The choice is theirs to make. Egypt has already discovered that the United States is willing to provide both tangible and moral support to those who really stand for peace in the Middle East. Saudi Arabia has the opportunity to enjoy the strong support of the United States under circumstances similar to Egypt. I hope that Saudi Arabia will determine that their true national interest rests with a close relationship with the United States and the pursuit of peace in the Middle East. The Saudis, however, must demonstrate their dedication to peace through positive diplomatic action, such as recognition of the State of Israel. Until that time, I must continue to oppose such sales, including the one before us today. I urge my colleagues to support the resolution of disapproval.●

Mr. LEVIN. Mr. President, I intend to vote for the resolution disapproving the Saudi arms sale because our past experience shows that the arms sale will not achieve what its proponents say it will. This arms sale is, in fact, very likely to have the exact opposite effect from that promised by the administration, both in terms of our relations with Saudi Arabia and in terms of our efforts to promote peace in the Middle East.

The administration asserts that the sale is a crucial "test of our friendship." They also argue that the missiles involved in the sale—Sidewinder air-to-air, Harpoon air-to-sea, and Stinger ground-to-air missiles—are needed urgently to defend against the threat posed by Iran's advances into Iraq, and that the Saudis require these missiles to maintain minimum defense capabilities.

The argument that Saudi Arabia's security depends on selling that country additional advanced missiles cannot be supported. First, it is hard to see how these missiles can be used to counter the Iranian threat when under the terms of the sale they won't even be delivered to the Saudis until 1989. Second, the Saudi's arsenal of sophisticated weapons is already enormous. Just to give one example, if this sale goes through, the Saudis would have 37 advanced AIM 9L missiles per F-15 aircraft—NATO's ratio, by comparison, is 9 to 1.

The other argument made by the administration—that this sale is essential for maintaining good relations with Saudi Arabia, and, by extension, for our interests in the region—also falls apart when one examines the historical record. In 1981, despite significant congressional opposition in which I participated, Saudi Arabia won the right to purchase five AWACS from the United States. Although supporters of the sale predicted an upturn in relations, the reverse took place: the Saudis immediately undertook steps detrimental to United States interests. Just 1 day after the Senate vote, they charged $2 more per barrel of oil, forcing the price to an all time high of $34 a barrel. And within a month after the vote, they gave more than $28 million to the Palestine Liberation Organization and participated in an urgent campaign against Oman's agreement to cooperate militarily with the United States. These three policies—raising oil prices, aiding the PLO, and sabotaging Amercan defense efforts in the Persian Gulf—have been repeated many times since 1981.

The Saudis have seemingly gone out of their way to support countries who are actively working against the United States interests in the Middle East. They supported the Syrian occupation of Lebanon and called for the withdrawal of American forces. Diplomatic relations with Libya were resumed in January 1982. In addition, the Saudis obstructed the Reagan administration's two major peace initiatives in the region. They pressured Jordan not to accept the September 1982 Reagan plan, and they endorsed Syrian opposition to the Lebanese-Israeli agreement of May 1983.

To win congressional approval of the AWACS sale, President Reagan made assurances that the AWACS would be transferred only after he had certified that "initiatives toward the peaceful resolution of disputes in the region have * * * been accomplished with the substantial assistance of Saudi Arabia." The Saudis have not assisted in the effort to achieve peace. In fact, they have made the search for peace in the Middle East more difficult. The Saudis are not even meeting the standard set by the President for the delivery of arms already approved for sale by Congress. It is inconsistent to now turn around and offer them a brand-new weapons package.

If this arms sale is a test of our friendship, I think we need to reassess exactly what we expect of our friends in the world. We do not expect our friends to always do everything we want them to do. But we should expect them to be sensitive to our foreign policy interests, and not to actively work against those interests. The policies followed by Saudi Arabia in recent years have been distinctly un-

friendly, and I think we are stretching the definition of friendship beyond any reasonable standard if we accept the argument that our friendship with this country depends on approving an arms sale that is not even needed from a military point of view.

Approval of this arms sale would send the wrong signal to the Saudis and, based on past experience, is likely to work against our long-term interests in the region. I urge my colleagues to support the resolution of disapproval.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I yield 2 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I thank my colleague from California, and compliment him on this resolution. I support him.

Mr. President, last week I made a statement and I ask unanimous consent that statement appear here in the RECORD.

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

SAUDI ARMS SALE: UNITED STATES ALLY?

Mr. DECONCINI. Mr. President, in the wake of the attack on Libya an alleged friend and recipient of over $50 billion in United States arms sales issued the following statement:

"Saudi Arabia today expressed its deep regret and condemnation over the U.S. attack on Libya this morning. The Saudi Government, which followed up the news of the air raid, condemns such behavior, [they] reiterated the Kingdom's backing to the Libyan people and all other Arab nations facing such attacks."

The administration has formally proposed a sale of $354 million worth of advanced missiles to Saudi Arabia, including the dangerous Stinger ground-to-air missiles, Sidewinder air-to-air missiles, and Harpoon antiship missiles. The State Department asserts that we must make this sale to guarantee our credibility with the Gulf Arab States and Saudi Arabia. I want to ask my colleagues, in all sincerity, if the above statement condemning and deploring the U.S. action of self-defense sounds like that of a friend with which we must assure our credibility? Saudi support for Colonel Qadhafi is merely one instance of undermining United States foreign policy interests. Let me cite a few more. When President Reagan was encouraging our European allies to join together in December to implement economic sanctions against Libya terrorists who cut loose with bullets and grenades in air terminals in Rome and Vienna, killing 16 people, including Natasha Simpson, an 11-year-old American girl. Colonel Qadhafi applauded. Saudi Arabia firmly supported an Islamic Foreign Minister's statement expressing support for Libya and promising to compensate for Libyan economic losses caused by the United States boycott.

When the United States Navy and Air Force fighters crossed Qadhafi's "line of death" in the Gulf of Sidra, Saudi Arabia again signed on to an Arab Council statement articulating solidarity with Libya. This statement was not only counterproductive for United States policy but called on Arab countries to supply Libya with assistance to confront the United States.

The United States has attempted negotiations, diplomacy, and economic sanctions with Libya in order to combat terrorism. The President eventually exercised military action to eliminate terrorist bases in Libya. The Saudi's, on the other hand, have rolled out the red carpet for terrorist efforts. The Saudi's have supplied the PLO with over $85 million each year since 1979 and bankroll the Syrians, another bastion of terrorism, with over $500 million annually.

Mr. President, if the Saudi undermining of United States foreign policy and support of worldwide terrorism are not compelling enough reasons to vote for Senate Joint Resolution 316, a resolution of disapproval, I would like to list three more. The administration has cited Saudi Arabia's moderating influence in the Middle East. I disagree. The administration states the need for more military weapons in light of growing threats from the Iran-Iraq conflict. I disagree. The administration believes that still more Stinger missiles should go to an army that trains with the PLO. I disagree. The further stockpiling of this lethal weapon poses a legitimate threat to Middle East peace and air travelers everywhere.

The State Department adamantly argues that "the Saudi's within the context of the Arab consensus, have made constructive contributions to the search for peace." I must remind my colleagues, that given the above litany of Saudi statements and actions in direct opposition to United States foreign policy, I cannot endorse the State Department claim. Saudi Arabia has opposed the Camp David process, the Reagan plan, and most recently, has refused to support King Hussein in diplomatic efforts with Israel. In addition, the Saudi United Nations delegation continually votes for resolutions criticizing Israel and condemning American support for Israel.

The administration and State Department argue that we must display our friendship for Saudi Arabia with this $354 million arms sale. I have a difficult time, however, explaining why America's friends and allies in the Arab world—the so-called Arab moderates—have not made more of an effort to put distance between themselves and the Libyan dictator or contribute more ostensibly to Middle East peace.

I must add a caveat here, as I believe that moderates, such as President Hosni Mubarak of Egypt, can contribute toward long-term solutions in this volatile region. To suggest that the Arab world cannot make any such contribution is demeaning. Arab nations, particularly moderates, must begin to make a clear commitment to international sanity and civilized behavior in a world increasingly threatened by terrorists. Saudi Arabia must exhibit some of Egypt's stabilizing moderation, courage, and fortitude.

This administration argues that the Saudi's are threatened by the Iran-Iraq war. They fear a spillover into Saudi Arabia and heightened conflict. They say this is immediate and eminent. This is simply untrue. The sale would not even begin until 1989 and therefore cannot be justified by an impending military threat from Iran. In addition to this the United States has already sold the Saudi's over $50 billion in military sales and construction. Mr. President, this astronomical sum would pay for education for the handicapped in the United States for the next 50 years or guaranteed student loans for the next 15 years. We have displayed our friendship. It is time for the Saudi's to reciprocate.

The Saudi's already have stockpiles of Stinger missiles. Although we stipulate that stringent security controls were conditions for the previous sale of Stingers, we must be cautious about this ideal terrorist weapon. Senator HELMS, in the Foreign Relations hearing on the Saudi Arabia arms sale, cited 1982 photos of equipment sold to the Saudi's which ended up in the hands of the PLO in Lebanon. I have already articulated my concerns about the Saudi's allowing the PLO to train with their army and their annual war chest for the PLO. I do not want to read about civilian or military aircraft shot down by Stinger missiles fired by PLO members.

It is not in the best interests of the United States, Middle East peace, worldwide safeguards against terrorism, or increased security controls for Stinger missiles to allow this sale to go through. I firmly oppose this sale until the Saudi's actually practice some of the "moderate Arab action" that this administration purports. I am uncompromising on opposing more arms until the Saudi's desist funding terrorists and Colonel Qadhafi. I am unyielding until the Saudi's begin to make visible and tangible contributions to Middle East peace. I enthusiastically embrace my good friend, Senator CRANSTON, and his resolution of disapproval.

Mr. DECONCINI. Mr. President, I think it would be real folly for us to move ahead in this sale at this time. We have heard constantly every time an administration, whether it be the Reagan administration or the Carter administration, that if we just make this sale, if we just move ahead and approve this arms transfer to the Saudis that we are going to have ourselves an important partner for peace in the Middle East. That has not happened.

We have seen continous problems in the Middle East. This administration has failed miserably to produce any type of policy that has brought the Saudis into the peace process. To the credit of President Mubarak, last week he made a statement that if other Arab nations would have joined in the Camp David peace accord, there would not be the war and terror that is going on in the Middle East today. I would say I support that type of Arab leadership that is prepared to move ahead. What did we see? If someone does not stand up and say no to this administration, we see them putting 230 marines and more—but 230 marines have lost their lives in Beirut. We see them moving in, pressuring the Israelis not to move in on Beirut and stop the PLO—and actually take some of them prisoner, and put them out of commission. This we have failed to do as an administration, and as a foreign policy.

Now to think we are going to buy ourselves some type of friendship with the Saudis who are going to move into the peace process does not make sense, Mr. President.

I hope the Senate resoundly supports this particular resolution because it will send a clear message that we are not going to continue to try to suck in and sway the Saudi Arabians when they are not willing to join in a genuine peace accord.

The PRESIDING OFFICER. The Senator's time is up. Who yields time?

Mr. CRANSTON. Mr. President, I yield 3 minutes to the distinguished Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the resolution before us would block the sale of some of America's most sophisticated and deadly missiles to Saudi Arabia. The sale endangers America's most reliable ally in the world and threatens the safety of millions of innocent American civilians.

Finally, rather than bring peace to the Middle East, the sale makes war more likely. Supporters portray this as just another routine arms deal. It is much more than that. It is an unnecessary sale to an unrealiable nation with an unenviable record of complicity in world terrorism.

Start by looking at what is involved in this sale: 800 Stinger antiaircraft missiles; the administration says the Saudis need these weapons to repel the "feared" Iranian Air Force. The only problem with this is that Iran has fewer than 100 aircraft. In short, there is virtually no Iranian Air Force to repel.

□ 1930

But the Stingers do pose a real and present threat to American citizens.

Stingers are so portable that one or two could easily be diverted for terrorist use.

The Saudis allow Palestinians to work in their army and many Saudis are sympathetic to the PLO.

It does not stretch the imagination to envision one or two Stingers landing in the hands of a crazed, Qadhafi-guided terrorist who will direct it with deadly effectiveness against an American civilian aircraft.

The sale package also includes nearly 1,700 Sidewinder missiles.

I urge my colleagues to examine this part of the sale in the context of what the Saudi's already have.

We are not talking about some arms-starved nation.

The United States has sold the Saudi's more than $13 billion worth of the most advanced weapons support equipment, ships, and aircraft in our arsenal.

Previous sales have given the Saudi's 3,000 Sidewinders.

Saudi's already have a staggering ratio of 37 AIM 9-L Sidewinders for each of their United States built F-15's.

Our NATO allies have only nine Sidewinders per aircraft; the Israeli's have but six per aircraft.

In short, this sale will provide the Saudi's with an arms bonanza far beyond that of any other United States ally and far beyond what is needed to meet any legitimate defensive needs; America should not stockpile a Saudi arms cache.

If the Saudi's do not need these weapons, why should we make this sale?

Sponsors say we must make the sale as a gesture of friendship to a trusted friend in a troubled region; they say that defeat of the deal would tarnish our image as a reliable ally in the Middle East.

We have heard for years now that the Saudis are our friends, that they are a moderate influence in the Middle East.

Indeed, we have heard this so often that many people actually believe it is true.

But the record is quite different on this score.

History has a lot to teach us; and this is a case where we would be wise to heed its lessons.

Want to review for a moment Saudi Arabia's "friendship" with the United States and Israel.

Go back a few months to the Rome and Vienna airport bombings. As Americans lay dying on the Tarmac, we heard the Saudis proclaim their "categorical solidarity" with Libya.

Last year, Saudi Arabia chipped in $28.5 million to the PLO, which continues to sponsor terrorist attacks against America and Israel.

In September 1984, Crown Prince Abdullah declared that "once Moslems achieve unity of will and action, Israel will be annihilated and disappear."

Late last year, the Saudis voted to "isolate Israel in all fields" and declare that the Jewish state "is not a peace loving nation."

Just 5 years ago, Saudi Arabia hosted an Islamic conference which opened with a prayer calling for divine assistance to "cleanse Jerusalem of Jews" and concluded with a call by the Saudi king for a "jihad" or, holy war, against Israel.

Clearly, the Saudis remain the sworn enemy of Israel and at the very least, a covert supporter of terrorism.

The Saudis have also done little to earn the right to be called America's friend.

The Saudi's have refused to provide written assurances that America will have access to Saudi bases in the event of a crisis.

They have subsidized massive Soviet arms purchases by Syria and Iraq.

They opposed the Camp David peace treaty and they worked to undermine the 1982 Reagan Middle East peace plan and the Lebanon-Israel accords of 1983.

Mr. President, this is not America's friend; this is not Israel's friend.

This is a nation that has supported America's enemies and sworn to destroy America's friend.

Ultimately, the test for this sale should not be whether it promotes friendship, but whether it promotes peace.

The cause of peace is not enhanced by selling weapons that could easily wind up in terrorist hands; or by ladening Saudi aircraft with enough missiles per plane to erase Israel as a nation. Finally, Mr. President, the cause of peace is not served by using weapons as a substitute for reason and negotiation.

Mr. CRANSTON. I yield 2 minutes to the Senator from Oregon.

Mr. HATFIELD. Mr. President, when I rose on this floor 3 weeks ago to condemn the bombing of Libya, I quoted Gandhi's assertion that "the means are the end in the making." As I oppose the proposed $354 million arms sale to Saudi Arabia, that assertion is again appropriate. The contention that peace and security will come to the Middle East through our continued reckless policy of arming the region to the teeth is nothing less than absurd. Instead, I suggest that this reckless policy will only fuel the fires flaming in the Middle East.

Take a look at this region today, Mr. President. The once beautiful city of Beirut has become a lawless and bloody wasteland. Iran and Iraq remain locked in a bitter struggle which has left thousands of young "soldiers" strewn across desolate battlefields. Misdirected religious fervor and the frustrations of millions of Palestinian refugees have turned children into terrorists. Last October, members of the Palestinian Liberation Front seized an Italian cruise ship and murdered an American tourist. A month later, an Israeli attack on Palestinian Liberation Organization headquarters in Tunisia killed more than 70 Palestinians and Tunisians. And in December, Palestinian terrorists killed 8 and injured more than 100 in simultaneous attacks in the Vienna and Rome airports.

I could go on for hours, but my point is this: The Middle East is a boiling cauldron of violence. Why introduce more arms into the region that can only beget more violence, more recrimination, and more arms requests? Mr. President, I wonder when we will learn that peace and security are not the products of sophisticated missile systems.

In the past 25 years, United States foreign military sales deliveries to the nations of the Middle East total over $44 billion. In 1985 alone, that number was $3.5 billion. The preponderance has been to Israel. Those numbers do not include military assistance, con-

struction, or training dollars, figures which would more than triple the totals.

Let me be clear on one point: I would oppose and have consistently voted against all arms sales, whether to Saudi Arabia, Egypt, Israel, Jordan, or any other nation in the region.

The security of these countries affirms the often-challenged truth that an absence of war does not necessarily mean peace. In the Middle East, an absence of war means only a "cease-fire".

The underlying cause of the regional conflict, unresolved Palestinian question, is not addressed by pouring more and more arms into the region's bottomless pit.

The violence which engulfs the Middle East, and our longtime reckless policy of arms sales to the region, dramatically illustrate my concern. As I said during my condemnation of the United States bombing of Libya, an end to the random regional violence cannot come until the underlying causes of terrorism and conflict are addressed. Rewarding our allies with arsenals of destructive weapons instead of addressing the needs and concerns of displaced people has never been anything but destabilizing and counterproductive.

Mr. President, let me again remind my colleagues of Gandhi's assertion: "The means are the end in the making." As we consider this and other arms sales which are proposed under the guise of peace and security, we would do well to remember those words.

Mr. CRANSTON. Mr. President, I yield 2 minutes to the distinguished Senator from Massachusetts.

Mr. KERRY. Mr. President, I will be brief in my remarks outlining my opposition to this arms sale to Saudi Arabia. As many of my colleagues already have pointed out, the President assured the Congress in 1981 that AWAC's then promised Saudi Arabia would not be turned over to their control unless:

> . . . initiatives toward the peaceful resolution of disputes in the region have either been successfully completed or that significant progress toward that goal has been accomplished with the substantial assistance of Saudi Arabia.

When the United States undertook major arms sales to Saudi Arabia, beginning with the sale of F-15's in 1978, our policymakers consistently assured us that these sales were necessary to enlist the support of the Royal Kingdom for the Middle East peace process. The record since 1978 has been pretty clear on this score. The Saudis either have been unwilling or unable to be a major force for peace in the Middle East. Actions always speak louder than words and this is particularly true in the Middle East. The simple fact of the matter is that we are confronted with the following reality:

The Saudis have not yet explicitly or publicly supported U.N. Resolutions 242 and 338 as the basis for a permanent peace in the region.

The Saudis still maintain that the so-called "Zionist entity" is their No. 1 enemy.

The Saudis continue to refrain from reestablishing diplomatic relations with Egypt, which they broke off after the signing of the Camp David accords.

The Saudis failed to support President Reagan's own peace proposal of 1982 and even went so far as to discourage King Hussein of Jordan from entering into negotiations.

The Saudis continued to fund and support Syria throughout the period of American involvement in Lebanon when United States military and diplomatic personnel were the targets of Syrian-sponsored terrorism.

As a major financial backer of Syria the Saudis refrained from exercising any influence to persuade President Assad to cease his opposition to the entrance of Jordan into the latest attempt to resume the peace process.

As yet, there is not any evidence that the Saudis have encouraged other Arab nations to enter into the peace process with Israel.

Perhaps it has been the fault of our policymakers that a sense of overexpectation has been built up regarding the role that Saudi Arabia could bring to a comprehensive Middle East peace process. What I find striking is the difference between President Reagan's assurance to the Congress in 1981, which was predicated upon the notion that a peaceful resolution of disputes in the region was of high priority for the United States, and the administration's justification for this particular sale today.

The fact of the matter is that this administration no longer justifies arms sales to Saudi Arabia on the basis of their role in seeking a permanent Middle East peace. As Assistant Secretary of State Richard Murphy stated during hearings before our committee last month, in response to a series of questions I posed:

> . . . your list of questions does illustrate the difficulties, or rather the approach to this sale, which I disagree with—that they are being judged purely and exclusively in relation to their support for the Arab-Israel peace process.
>
> Now, I never came up here to suggest that we were satisfied with the level of Saudi activity in the peace process. I would sit here today and tell you that they have done more than perhaps is generally recognized on the peace process.

Mr. President, nearly 5 years ago the President of the United States assured the Congress that AWAC's we were then proposing to sell to Saudi Arabia would not be turned over to complete Saudi control unless the peaceful resolution of disputes in the region had either been successfully completed, or that significant progress toward that goal has been accomplished with the substantial assistance of Saudi Arabia.

Today, we are no closer to a peaceful resolution of disputes in the region than we were in 1981.

Today, all the evidence demonstrates that significant progress toward that goal has not been accomplished, let alone with the substantial assistance of Saudi Arabia.

The criteria for the AWAC's sale have not been met. And rather than the Middle East peace process being of priority concern to this administration as it allegedly was in 1981, an entirely different rationale for additional sales of sophisticated weapons to Saudi Arabia is now being articulated by the administration. According to administration spokesmen, these sales are now necessary to protect U.S. security interests in the Persian Gulf. It was the same rationale that former Secretary of State Henry Kissinger used to justify massive arms sales to the Shah of Iran. The Shah was to have been the U.S. gendarme in the Persian Gulf.

That is why I am opposed to this sale. Our entire rationale for entering into an arms supply relationship with Saudi Arabia has changed significantly from what it was when the President provided the Congress with his written assurances. It seems as if the President is always providing the Congress written assurances on controversial foreign policy issues that are forgotten almost as quickly, it seems, as the ink from his signature has dried.

I raised a number of questions during our committee hearings in relation to this proposed sale. In many cases I did not receive satisfactory responses. For example on the issue as to why the Saudis have not supported U.N. Resolutions 242 and 338 explicity and publicly, I received the following response:

> The Saudis have strongly supported the concept of land for peace which is embodied in U.N. Resolutions 242 and 338. They do, however, have reservations about the treatment of Palestinians only as refugees in 242. The Fahd plan adopted formally by the Arab summit of Fez in 1982 explicitly stated that all states in the region should be able to live in peace, an implicit acceptance of Israel's right to a secure existence. The concept of land for peace was a direct reflection of U.N. Resolutions 242 and 338.

Mr. President, we would never enter into negotiations with the Soviet Union unless the issues we were to negotiate were explicitly defined. The acceptance of U.N. Resolutions 242 and 338 as the basis for a permanent peace in the Middle East has been the cornerstone of U.S. policy since 242 was enacted in the aftermath of the 1967 Middle East war. We have been very explicit as to what our policy has been. We have not tried to delude anyone or

imply that our policy was anything but an unequivocal support for the language contained in U.N. Resolutions 242 and 338.

We have criticized the Soviets for not being more explicit in proposals they have tabled at Geneva as reason enough not to pursue serious arms control negotiations with them. I do not see why we should praise the Saudis for not being more explicit than they have been in relations to the acceptance of U.N. Resolutions 242 and 338.

The administration also contradicted the President's written assurances to the Congress in 1981, in response to the following question I posed during our hearings. I asked that if, as appears to be the case, no real progress with Saudi assistance is being made toward peace in the Middle East, then why are we still planning to deliver the AWAC's to Saudi Arabia? The response was as follows:

Progress toward peace is slow, difficult, and often disappointing. Nevetheless, there has been progress and Saudi Arabia has helped substantially. Moreover, the primary reason for the AWAC's sale was to protect U.S. interests in the Persian Gulf. Those reasons are as valid today as they were in 1981. To support them we will deliver the AWAC's as planned.

During our presence in Lebanon, President Reagan denounced Syria as public enemy No. 2 after the Soviet Union. Since that time, Syria, along with Libya and Iran, has been characterized by Secretary of State George Shultz as being the primary supporters of terrorism in the world. Yet, in response to my question as to why Saudi Arabia continued to fund and support Syria throughout the period of American involvement in Lebanon, when American military and diplomatic personnel were the targets of Syrian supported terrorism, the response was as follows:

The Saudis believe that it is important to retain their access to and influence with the Syrians. That channel of communication has been useful to us as well. There is no question that Saudi Arabia has tried to use its influence with Syria to achieve both the ceasefire and a negotiated resolution of the Lebanese situation. Saudi Arabia has also been outspoken against terrorism, from which they too have suffered. We lack conclusive evidence that Syria directed the bombing attacks on our Embassy and the Marines.

I found that response a little disingenuous. The fact that the Syrians have allowed terrorists training bases to operate in the Bekaa Valley in Lebanon should be evidence enough of what this administration characterizes as state-sponsored terrorism. Just because a nation does not personnally direct terrorist activities, does not mean they do not support the terrorist activities launched from territories under their control.

Finally, in response to my question as to why the Saudis continually specifies "the Zionist entity" as their No. 1 enemy if they are trying to advance the cause of peace, I received this response:

Despite the Saudi public posture on Israel, there is little doubt that Saudi Arabia considers Iran, and perhaps other regional states, far more menacing than Israel. The term "Zionist entity" and Israel appear interchangeably in most Saudi publications, a practice not unlike the Western practice of referring to the "Communist bloc" or "Third World."

Mr. President, I find this response duplicitous and tenuous at best. Certainly this administration does not use such terms as "Communist bloc" as an endearing characterization. As a matter of fact, it is this administration's constantly asserted argument that the Soviet Union and its Communist bloc allies are the penultimate of evil and represent the greatest threat to peace and stability in the world since the beginning of history. Therefore, I would have to assume that the Saudi use of the "Zionist entity" to characterize Israel is similar to our use of the term "monolithic communism" or "communist bloc" as a characterization with similar dangerous connotations.

Be that as it may, Mr. President, I think the record is pretty clear regarding either the desire or the capability of Saudi Arabia to play a leadership role in finding a comprehensive solution to the Middle East crisis. And to argue that the absence of war between Israel and her Arab neighbors can be translated into something approaching stability is a mistaken delusion on our part.

Finally, I think it is important to be very cautious in heading down the path of another arms sale in the Middle East. It is obvious that the focus of our policy has changed since 1981. The administration has admitted that we are no closer to peace than we were in 1981 when the President provided written assurances on the AWAC's sale. The administration has also itself expressed they have not been satisfied with the level of Saudi activity on the peace process, despite assurances the royal family should play a significant role in this process.

Time will only tell whether or not the recent United States bombing raid on Libya will drive the so-called Arab moderates farther away from the United States. We may be entering into an era in which Arab States such as Saudi Arabia will view the United States as nothing more than a convenient source of sophisticated weaponry. And that is a very thin reed upon which we should be basing our arms transfer policy. I think it is time to put peace in the Middle East back into our policy considerations as they relate to that volatile region of the world.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I yield 30 seconds to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I received a letter recently, as did other Senators, from Emmauel de Margerie, the Ambassador of France to the United States. It represents a very clear and fair statement of the French position on Libya and relations between the United States and France, our oldest ally. The leadership of our countries held different positions on this action, but those differences should not be allowed to obscure or disturb the deep and enduring ties between us. There are, as the Ambassador states, many specific instances of French support of American policies and American support of French policies. But the most important point that the Ambassador makes is that this particular issue should not lead to a misunderstanding between us or to any strains in the alliance. Only those who do not share our goals would be pleased by such a development.

I ask unanimous consent that the letter be printed in the RECORD at this point.

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

AMBASSADE DE FRANCE
AUX ETATS-UNIS,
April 17, 1986.

Senator CHARLES McC. MATHIAS, Jr.,
Committee on Foreign Relations,
The U.S. Senate

DEAR SENATOR MATHIAS: The events that have transpired over the past few days in the context of the American military operation against Libya have unleashed in Congress and in public opinion a number of critical remarks concerning France.

I think it is necessary to bring to your attention certain facts that will give you a more accurate view of the situation.

One of the primary accusations concerns a supposed French tolerance—not to mention some of the other terms used—toward Libya. Such an accusation reflects a misunderstanding of France's attitude. You are surely aware of the direct threat that Colonel Qaddafi has been to Chad over the past few weeks. In response to this situation, the French government notified the Libyan authorities that it would not tolerate any threats to the sovereignty of that nation. When the Libyans continued to pursue their activities in Chad, French forces reponded. Just a few weeks ago French aircraft bombed a Libyan airport in the north of Chad and put an end to preparations for further Libyan actions. French troops are deployed in the capital of Chad and in its neighboring states. Our presence had dissuaded colonel Qaddafi from pursuing his attempts at destabilizing Chad and has served as a warning against carrying out that sort of activity elsewhere. The fact that our actions in this area were no loudly publicized does not detract from our determination to protect Chadian interests, which are African, and you will agree, western interests as well. The fact that we called for a response in the case where countries in southern Europe would be threatened by Libya stems from the same determination.

Allegations have been made concerning the existence of French "interests" in Libya that have lead French officials to appease Libyan leaders. I think a few facts will do these allegations the justice they deserve. France does not buy a single drop of oil from Libya, it has reduced its trade with Libya to one-fourth of what it was three years ago, and there are less than 800 French citizens in Libya. And it is certainly not French companies that keep the wheels of the Libyan oil industry turning.

The French government has been reproached for not being firm enough in the face of terrorism. To make such a reproach is to forget that France has been one of the principal victims of terrorist attacks over the past years and that French public opinion, every bit as much as American public opinion, is alert to these dangers. Need I remind you that at this very moment eight French hostages are being detained in Lebanon, and that France has paid a heavy tribute in human lives in an attempt to maintain the sovereignty and unity of that country. The French government has always adopted and will continue to adopt a firm attitude when confronted with terrorist threats, as is evident from the strengthening of police surveillance and judicial measures in our country. We wholly recognize the need for cooperation among our allies' competent services in order to fight against this threat. This fact, I believe, is not contested by any of the specialists that deal with this problem; the opinions voiced by officials in Congress offers ample confirmation of this. The French government has recently expelled two members of the Libyan Peoples Bureau. President Reagan mentioned the cooperation provided by French intelligence services that made it possible to prevent an attack against an American diplomatic mission. The fact that, for obvious reasons, we do not wish to publicize these and other patient, consistent and dangerous efforts does not in any way detract from the firmness of our actions against terrorism.

References to European reactions to the American operation in Libya have frequently evoked "condemnations" and anti-American sentiment on the part of public opinion. I feel that it is necessary on this point to remind you that the French government at no time either condemned or approved this operation. We expressed our concern regarding the risk of a spiral of events. I don't think this risk can be underestimated. Furthermore, you should know that no anti-American demonstrations have taken place in France. The fact is that we in France have our own analyses and concepts regarding the fight against terrorism. They take into account not only our own interests but also our conviction that the phenomenon of terrorism—one we have confronted for many years—stems from diverse causes and is of many origins, and that we consequently must combat it on many fronts and with varied and appropriate means. Informed opinion will not dispute this analysis. As concerns the request for American aircraft participating in the operation against Libya to fly over French territory, the response given by the French government—which should be understood in light of what has just been said—was the following: it is not possible for us to give such an authorization but we are ready, immediately, to consult with you on the best measures to take in the face of terrorism, those who support it, inspire it and encourage it. The American response was that there was not time for such consultations.

More generally, certain comments have gone as far as to question France's role as an American ally. Our position on this point is very old, well known and unchanging. France is not a member of NATO's integrated military command and has independent military, notably nuclear, forces. This does not detract from our commitment to the alliance of western democracies. Those officials who truly know the role of France in the Alliance have no doubts as to the daily and concrete reality of this commitment. And has it been forgotten that at a time crucial to relations within the Alliance, when a decision was being made on the deployment of American intermediate range missiles in Eurpoe, the French president expressed, in Germany, France's support for this deployment, thereby helping convince European opinion of the necessity of responding to the imbalance of forces in Europe.

Theses are the points, Senator, I wanted to make. I have spoken quite candidly with you because this issue is so important and because it distresses me to see a misunderstanding between our two countries. Any dissension within the Alliance would only give satisfaction to those who do not share our common goals.

I am, Senator,

Sincerely yours,

EMMANUEL DE MARGERIE.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I yield 2 minutes to the Senator from Wisconsin.

Mr. KASTEN. Mr. President, when the Senate considered the AWACS sale to Saudi Arabia in 1981, we were told that approval of that sale was necessary and justified because of substantial assistance by that country to the United States in promoting peace in the Middle East.

In fact, what has happened since then is that Saudi Arabia has participated in undermining every American peace initiative, and continues to do so today.

Of recent note is the Saudi position, expressed on several different occasions, that they stand with Libya against American and other efforts to curb that terrorist regime. In addition, and ironically this was confirmed by the head of the Central Intelligence Agency on the very day the Saudi sale was sent to Congress, the Saudis continue to provide substantial support to the PLO. It also financially supports Syria and radical factions in Lebanon. We are being asked to approve the sale of Stinger missiles to Saudi Arabia. Even if we did approve these missiles, along with air-to-air Sidewinders and air-to-ship Harpoon missiles, they will not begin to be delivered until 1989. Saudi Arabia does not need this sale to deter Iran in the short run. They currently have 3,000 Sidewinders to defend themselves from Iran's 100 aircraft.

In short, Mr. President, the administration tells us that Saudi Arabia needs these weapons and is being responsive to U.S. concerns for peace in the Middle East. However, there is absolutely nothing that they can point to that supports these statements. In fact, the situation is to the contrary.

VETO STRATEGY OF THE ADMINISTRATION

Mr. President, of potentially more serious consequence is the strategy which has been adopted by this administration to pursue a successful completion of this sale by securing enough votes in the Senate to sustain a veto. All of the effort by the administration is aimed at picking up 34 votes after this measure comes back to us with the Presidential veto—notwithstanding that fact, it is certain that well over 60 percent, and perhaps as much as two-thirds of both bodies of Congress are opposed to the sale.

This raises serious questions of the U.S. Government's foreign policy and serious questions about the relationship between the executive and legislative branches.

Arms sales by the United States are an important aspect of defense and foreign policy and require assent by both branches of Government. Under the Arms Export Control Act, before the Chadha decision, we had a system which provided an adequate mechanism for congressional input. A veto strategy does not allow for adequate input by the legislative branch, and could well lead to legislation which would be an anathema not only to the executive branch, but also to Congress, whereby we would have to approve each and every arms sale proposed by the administration.

Mr. President, I strongly believe that if the Congress in fact rejects this particular sale—or any other sale for that matter—by the substantial margins which appear likely in this case, the administration, as a matter of sound foreign policy, should not proceed. To do so would theoretically mean that such sales could go forward with only the approval of 34 of the 535 elected Members of Congress. This is not an acceptable way to proceed on such matters.

Mr. CRANSTON. Mr. President, I yield 1 minute to the distinguished Senator from Oregon, Senator PACKWOOD.

Mr. PACKWOOD. Mr. President, let us remember that the standard we have tried to adhere to in the Senate involving these sales is that we would be reluctant and opposed to them unless we saw an indication in that country that these weapons would be used to help further the peace process.

In this case, there is no evidence that Saudi Arabia has been of any help in furthering the peace process. Until that standard is met, a standard we have had for a number of years, I think this sale should be turned down.

Mr. CRANSTON. Mr. President, I thank the Senator from Oregon for his continued bipartisan leadership.

Mr. President, I yield 1 minute to the Senator from New York.

Mr. MOYNIHAN. Mr. President, in association with the remarks of the Senator from Oregon, I think it is appropriate also at this time that the nations, including our own, which are meeting in Tokyo at the summit conference have resolved very explicitly and most importantly to make a concerted effort against the problems of terrorism in the world, speaking specifically of the nation of Libya.

We should not be selling arms to a nation that would do either of those things, and, indeed, which has too often associated themselves with just the opposite.

Mr. CRANSTON. Mr. President, let me say in conclusion that President Reagan has won plaudits for his willingness to take strong action against third world dictators and potentates who consistently scorn American interests. I believe now is the time for Congress to demonstrate similar resolve. Let us vote today to shelve the pending sale, and thereby make clear that we look to the Saudi monarchy to show a bit more sensitivity to our key national security needs before we will be prepared to entertain future requests.

Mr. HART. Mr. President, I support the proposed resolution to stop the sale of advanced missiles to Saudi Arabia. Those who argue that the sale of these missiles to the Saudis is in the security interests of the United States miss the mark. We cannot sit on both sides of the fence at the same time. The Saudis are closer to the PLO than they are to negotiating peace with Israel, and yet this administration proposes to arm them far beyond their defensive security needs.

Despite $44 billion in past arms sales and promises of increased cooperation, the Saudis remain intransigent and unwilling to take genuine steps toward the recognition of Israel and the establishment of peace in the Middle East. Yet the administration's presentation is the same every time Congress is confronted with an arms sale. Time and time again we are told that such an arms sale is necessary to demonstrate even-handedness in the Middle East, or to bring the Saudis into the peace process. Well it is not and it will not.

Mr. President, all of us understand how profound our historical and strategic ties with Israel are. That is why I am eternally puzzled why the force of history so often gives way to diplomatic expedience. Five years ago the administration fought relentlessly to sell advanced communications aircraft to the Saudis to induce their participation in the peace process. The Saudis and the administration won that battle—but they were the only winners.

Now, as if to reward the Saudis' intransigence, the administration wants to sell them $300 million in Sidewinder, Stinger, and Harpoon missiles. We cannot stand by and let this happen again. It is time we said "enough is enough." Let us see some positive movement toward peace in the Middle East before we continue arming those who refuse to cooperate in the search for that peace. If $44 billion in past sales was not enough of an enticement, we have no reason to believe that $300 million in additional missiles will.

Mr. President, there is another argument put forth by those advocating this sale to the Saudis. They claim that the fighting between Iran and Iraq endangers the security of the Saudi Arabian borders, and that the inclusion of the additional missiles in the Saudi air force will send a clear message to the Iranians that they had better not violate those borders.

But we all know that the Iranian air force is no match for the current stock of Saudi missiles. Sending more does not send any clearer message.

In 1981, President Reagan gave a written pledge to Congress, at the time of the AWACS sale, conditioning U.S. arms sales only if "initiatives toward the peaceful resolution of disputes in the region have either been successfully completed or that significant progress toward that goal has been accomplished with the substantial assistance of Saudi Arabia." Obviously, these conditions have not been met. The Saudis have done nothing to help fulfill this pledge even when they have had many opportunities to do so. They have not encouraged the Jordanians in their efforts to develop a dialog, and if anything have moved closer to the hard line of the Syrians.

Mr. President, Saudi Arabia is a friend and we have common security concerns. However, with no progress toward peace or any letup in terrorist-sponsored violence, further arms sales will only contribute to the atmosphere of violence and instability that permeates the Middle East. I cannot under these circumstancs support the administration's proposed sale of weapons to the Saudis.

The PRESIDING OFFICER. Who yields time?

Mr. LUGAR. Mr. President, I yield the remainder of our time to myself.

Mr. President, the debate today has concentrated on whether the Saudis have deserved our consideration. Since the 1940's, the United States has been a crucial factor in the Middle East, trying to establish and maintain peace and security. This fact has reflected the depths of our political, economic and strategic concerns in that region. Eight administrations, both Democratic and Republican, have consistently sought to protect the peace. We have had a fundamental and constant commitment to the security of Israel, but throughout the same period, since World War II, we have tried to promote links to moderate Arab states and to deny opportunities to the Soviet Union. We did so to protect the free world's access to oil, to check the growth of radical anti-Western movements, and, finally, to be a factor for peace.

It would be a tragedy, Mr. President, if we opted out of that position by denial of this sale.

□ 1940

I encourage Members to vote "nay" on this resolution.

Mr. CRANSTON. Mr. President, I yield the final 1 minute and 35 seconds to the Senator from Colorado [Mr. HART].

Mr. HART. Mr. President, in the more than a decade of service in the Senate, repeatedly, the Senator from Colorado has heard arguments in favor of increased arms sales to various countries in the Middle East. The argument is that these sales are made to ensure evenhandedness of our Government in its foreign policies under both parties and all administrations, that somehow if we made one more arms sale, whether of AWACS or F-15's or some other sophisticated weapons system or whatever it was, this would advance the peace process, this would make nations more secure, and bring people to the negotiating table.

The Senator from Colorado has yet to see one of those sales move the peace process 1 inch closer or move any of these nations one step toward the negotiating table.

I hope this resolution passes and I hope it convinces this administration and others who believe we can buy peace by arms sales that it is not going to work. We have to use diplomacy and not the force of arms in order to achieve the peace that all of us want in that region.

The PRESIDING OFFICER. Who yields time?

All time has expired.

The question is on agreeing to the resolution. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Florida [Mrs. HAWKINS], the Senator from New Hampshire [Mr. HUMPHREY], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

I further announce that, if present and voting, the Senator from Florida [Mrs. HAWKINS] would vote yea.

Mr. CRANSTON. I announce that the Senator from Louisiana [Mr. LONG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 22, as follows:

[Rollcall Vote No. 91 Leg.]

YEAS—73

Abdnor	Exon	Metzenbaum
Andrews	Ford	Mitchell
Armstrong	Glenn	Moynihan
Baucus	Gore	Murkowski
Bentsen	Gorton	Nickles
Biden	Grassley	Nunn
Bingaman	Harkin	Packwood
Boren	Hart	Pell
Boschwitz	Hatfield	Pressler
Bradley	Hecht	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Riegle
Byrd	Helms	Rockefeller
Chiles	Hollings	Roth
Cohen	Inouye	Rudman
Cranston	Johnston	Sarbanes
D'Amato	Kasten	Sasser
Danforth	Kennedy	Simon
DeConcini	Kerry	Specter
Dixon	Lautenberg	Symms
Dodd	Leahy	Trible
Domenici	Levin	Weicker
Durenberger	Matsunaga	Wilson
Eagleton	Mattingly	
East	Melcher	

NAYS—22

Chafee	Hatch	Stafford
Cochran	Laxalt	Stennis
Denton	Lugar	Thurmond
Dole	Mathias	Wallop
Evans	McClure	Warner
Garn	McConnell	Zorinsky
Goldwater	Quayle	
Gramm	Simpson	

NOT VOTING—5

Hawkins	Kassebaum	Stevens
Humphrey	Long	

So the joint resolution of disapproval (S.J. Res. 316) was passed.

□ 2000

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

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

The motion to lay on the table was agreed to.

Mr. SIMPSON. Mr. President, I commend again the Senator from Indiana [Mr. LUGAR], who chairs the Committee on Foreign Relations, for his excellent work, as well as Senator PELL, and the dogged persistence of Senator CRANSTON, for whom I have learned to have great respect and regard.

It is a serious issue, a serious vote. It discloses a situation which must be revisited at a future time, and I am sure it will be. It is one of those issues with which we do that with some regularity.

SEQUESTRATION OF NEW LOAN GUARANTEE COMMITMENTS

Mr. SIMPSON. Mr. President, after consulting with the Democratic leader, I send a bill to the desk, on behalf of Senators MURKOWSKI, CRANSTON, SIMPSON, THURMOND, SPECTER, DENTON, BOSCHWITZ, DECONCINI, ROCKEFELLER, WILSON, and ABDNOR, and ask for its immediate consideration.

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

Mr. BYRD. There is no objection.

There being no objection, the Senate proceeded to consider the bill (S. 2416) to revise further the limitation applicable to chapter 37 of title 38, United States Code, for fiscal year 1986, for the purpose of implementing any order issued by the President for such fiscal year under any law providing for the sequestration of new loan guarantee commitments, which was read twice by title.

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. 2416) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2416

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Act entitled "An Act to establish, for the purpose of implementing any order issued by the President for fiscal year 1986 under any law providing for sequestration of new loan guarantee commitments, a guaranteed loan limitation amount applicable to chapter 37 of title 38, United States Code, for fiscal year 1986", approved March 7, 1986 (Public Law 99-255; 100 Stat. 39), is amended—

(1) by striking out "guaranteed loan limitation amount" and inserting in lieu thereof "limitation"; and

(2) by striking out "$18,200,000,000" and inserting in lieu thereof "$30,900,000,000".

(b) The title of such Act is amended by striking out "guaranteed loan limitation amount" and inserting in lieu thereof "limitation".

□ 2010

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

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

The motion to lay on the table was agreed to.

PREVENTING SEXUAL MOLESTATION OF CHILDREN IN INDIAN COUNTRY

Mr. SIMPSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1818.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representative:

Resolved, That the bill from the Senate (S. 1818) entitled "An Act to prevent the sexual molestation of children in Indian country", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. CRIMINAL PENALTY FOR FELONIOUS SEXUAL MOLESTATION OF A MINOR IN INDIAN COUNTRY.

Section 1153 of title 18, United States Code, is amended by inserting "felonious sexual molestation of a minor," after "involuntary sodomy," in the first undesignated paragraph.

SEC. 2. TECHNICAL AMENDMENTS.

Section 1153 of title 18, United States Code, as amended by section 1, is further amended by—

(1) inserting at the beginning of the section the following heading:

"§ 1153. Offenses committed within Indian country";

(2) designating the first undesignated paragraph as subsection (a); and

(3) striking out the second and third undesignated paragraphs and inserting in lieu thereof the following new subsection:

"(b) Any offense referred to in subsection (a) of this section that is not defined and punished by Federal law in force within the exclusive jurisdiction of the United States shall be defined and punished in accordance with the laws of the State in which such offense was committed as are in force at the time of such offense.".

Amend the title so as to read: "An Act to amend section 1153 of title 18, United States Code, to make felonious sexual molestation of a minor an offense within Indian country.".

Mr. DENTON. Mr. President, on November 1, 1985, Senator DECONCINI and I introduced S. 1818, a bill to prevent the sexual molestation of children in Indian country. On December 5, the bill was passed by the Senate by voice vote. The bill is now back before the Senate, having been passed by the House of Representatives in an amended form.

Mr. President, S. 1818 is designed to fill a gap in the Major Crimes Act, 18 U.S.C. 1153, with regard to serious sexual conduct directed at children. Currently, section 1153 reaches the crimes of rape, involuntary sodomy, and carnal knowledge of a female under the age of 16, when those crimes are committed by an Indian in Indian country. Although recently amended by Public Law 98-473 to add the offense of involuntary sodomy, the statute still lacks adequate coverage of nonforcible sexual conduct committed by an adult on children.

Serious offenses that are not now covered include adult sexual contact with male or female children other than rape, involuntary sodomy and carnal knowledge. Many U.S. attorneys have reported a troubling increase in incidents on Indian reservations. Amendment of the Major Crimes Act is necessary to permit effective enforcement, since without the amendment these serious offenses, which nearly all States treat as felonies, are prosecutable only in a tribal court, which may administer a maximum punishment of up to only 6 months imprisonment and/or a fine of $500, according to 25 U.S.C. 1302(7).

Moreover, amendment of the Major Crimes Act is necessary to increase the protection of children of Indian reservations and to render more similar the punishment for such crimes between Indian and non-Indian offenders. A non-Indian who commits the crime of sexual molestation of a minor in Indian country is punishable under the far more stringent provisions of State law, either in State court when the victim is a non-Indian, or in Federal court by assimilation under 18 U.S.C. 1152 when the victim is an Indian.

The bill adds the offense of "felonious sexual molestation of a minor" to section 1153, thus permitting State law and the accompanying penalties to be used in Federal court to prosecute Indians as well as non-Indian sexual molesters of children in Indian country. The description of the offense as "sexual molestation of a minor" is, like the recent addition of "involuntary sodomy," meant to be generic in nature. Thus, it would not matter whether the particular State denominated its offense as "sexual molestation" or by some other title such as "indecent liberties" or "sexual contact" with children.

So long as the State has on its books a felony offense that proscribes the conduct of nonforcible sexual abuse of the person of a minor, also as defined by State law, that offense will be incorporated into section 1153. The offense must, however, be a felony. This qualification ensures that, as with all other offenses in section 1153, only the major varieties of the offense will be subject to Federal jurisdiction, maintaining exclusive tribal jurisdiction over the lesser offenses.

As the U.S. Supreme Court noted in the famous case of *New York* versus *Ferber*, "the prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance." It was with that objective in mind that Senator DECONCINI and I introduced this bill to prevent the sexual molestation of children in Indian country.

The bill is endorsed by the Department of Justice, the Bureau of Indian Affairs of the Department of the Interior, and the National Congress of American Indians.

Mr. President, as to the amendments adopted by the House, I should state that they are technical in nature and include (1) restoring the section number and catchline, which were inadvertently repealed by the Comprehensive Crime Control Act of 1984 and (2) designating the first paragraph of section 1153 as subsection (A), combining the second and third paragraphs into a new paragraph and designating the new paragraph as subsection (B). None of these changes affect the substance of section 1153 or the substance of S. 1818. I should also state that the amendments are acceptable to Senator DECONCINI and myself.

I urge my colleagues to accept the House amendments and vote in favor of the bill.

Thank you, Mr. President.

Mr. SIMPSON. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wyoming.

The motion was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. SIMPSON. Mr. President, I inquire of the minority leader if he is in a position to pass any of the following calendar items: Calendar 629, S. 1750, and Calendar 635, S. 1874.

Mr. BYRD. Mr. President, there is no objection on this side and we are ready to proceed.

Mr. SIMPSON. Then, I ask unanimous consent that the calendar items just identified be considered en bloc, and passed en bloc, and all committee reported amendments be considered agreed to en bloc.

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

CIVIL PENALTIES FOR UNSAFE OPERATION OF COMMERCIAL AIRCRAFT

The Senate proceeded to consider the bill (S. 1750) to amend the Federal Aviation Act of 1958, as amended, to increase civil penalty limits for safety violations by persons engaged in commercial aircraft operations, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike out all after the enacting clause, and insert the following:

That section 901(a)(1)(A) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1471(a)(1)(A)), is amended by inserting immediately after "section" where it first appears the following: "1101 or".

SEC. 2. Section 901(a)(1) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1471(a)(1)), is amended by inserting immediately after "violation", where it first appears the following: "except that the amount of such civil penalty shall not exceed $10,000 for each such violation of title III, VI, or XII of this Act, or any rule, regulation, or order issued under any such title, by a person who operates aircraft for the carriage of persons or property for compensation or hire, and".

SEC. 3. Section 901(a)(2) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1471(a)(2)), is amended by inserting immediately after "XII" the following; ", or of section 1101, 1114, or 1115(e)(2)(B)".

The amendment was agreed to.

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

The title was amended so as to read: "A bill to amend the Federal Aviation Act of 1958 to increase civil penalty limits for safety violations by persons engaged in commercial aircraft operations, and for other purposes."

EDUCATION OF THE DEAF ACT

The Senate proceeded to consider the bill (S. 1874) to authorize quality education programs for deaf individuals, to foster improved educational programs for deaf individuals throughout the United States, to reenact and codify certain provisions of law relating to the education of the deaf, and for other purposes, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Education of the Deaf Act of 1985".

TITLE I—GALLAUDET UNIVERSITY

PART A—GALLAUDET UNIVERSITY GENERAL AUTHORITY

CONTINUATION OF GALLAUDET COLLEGE AS GALLAUDET UNIVERSITY

SEC. 101. (a) GALLAUDET UNIVERSITY CONTINUED.—The Gallaudet College created by an Act entitled "An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes," approved June 18, 1954, is continued as a body corporate under the name of Gallaudet University. Hereafter Gallaudet College shall be known as Gallaudet University and have perpetual succession and shall have the powers and be subject to the limitations contained in this Act.

(b) PURPOSE.—The purpose of Gallaudet University shall be to provide education and training to deaf individuals and otherwise to further the education of the deaf.

PROPERTY RIGHTS

SEC. 102. (a) PROPERTY RIGHTS DESCRIBED.—Gallaudet University is invested with all the property and the rights of property, and shall have and be entitled to use all authority, privileges, and possessions and all legal rights which it has, or which it had or exercised under any former name, including the right to sue and be sued and to own, acquire, sell, mortgage, or otherwise dispose of property it may own now or hereafter acquire. Gallaudet University shall also be subject to all liabilities and obligations now outstanding against the corporation under any former name.

(b) DISPOSAL OF PROPERTY.—(1) With the approval of the Secretary of Education, the Board of Trustees of Gallaudet University may convey fee simple title by deed, convey by quitclaim deed, mortgage, or otherwise dispose of any or all real property title to which is vested in the United States, as trustee, for the sole use of Gallaudet University, Gallaudet College, the Columbia Insti-

tution for the Deaf, or any predecessor corporation.

(2) The proceeds of any such disposition shall be considered a part of the capital structure of the corporation, and may be used solely for the acquisition of real estate for the use of the corporation, for the construction, equipment, or improvement of buildings for such use, or for investment purposes, but if invested only the income from the investment may be used for current expenses of the corporation.

BOARD OF DIRECT TRUSTEES

SEC. 103. (a) COMPOSITION OF THE BOARD.—(1) Gallaudet University shall be under the direction and control of a Board of Trustees, composed of twenty-one members selected as follows:

(A) Three public members of whom: one shall be a United States Senator appointed by the President of the Senate; two shall be Representatives appointed by the Speaker of the House of Representatives; and

(B) Eighteen other members, all of whom shall be elected by the Board of Trustees, who on the effective date of this Act shall include those individuals serving as nonpublic members of the Board of Trustees of Gallaudet College immediately prior to such date, and of whom one shall be elected pursuant to regulations of the Board of Trustees on nomination by the Gallaudet University Alumni Association for a term of three years.

The members appointed from the Senate and House of Representatives shall be appointed for a term of two years at the beginning of each Congress, shall be eligible for reappointment, and shall serve until their successors are appointed.

(2) The Board of Trustees shall have the power to fill any vacancy in the membership of the Board except for public members. Nine trustees shall be a quorum to transact business. The Board of Trustees, by vote of a majority of its membership, is authorized to remove any member of their body (except the public members) who may refuse or neglect to discharge the duties of a trustee, or whose removal would, in the judgment of said majority, be to the interest and welfare of said corporation.

(b) POWERS OF THE BOARD.—The Board of Trustees is authorized to—

(1) make such rules, policies, regulations, and bylaws, not inconsistent with the Constitution and laws of the United States, as may be necessary for the good government of Gallaudet University, for the management of the property and funds of such corporation and for the admission, instruction, care, and discharge of students;

(2) provide for the adoption of a corporate seal and for its use;

(3) fix the date of holding their annual and other meetings;

(4) appoint a president, professors, instructors, and other necessary employees for Gallaudet University, delegate to them such duties as it may deem advisable, fix their compensation, and remove them when, in their judgment, the interest of Gallaudet University shall require it;

(5) elect a chairman and other officers and prescribe their duties and terms of office, and appoint an executive committee and vest the committee with such of its powers during periods between meetings of the Board as the Board deems necessary;

(6) establish such departments and other units, including a department of higher learning for the deaf, a department of elementary education for the instruction of deaf children, a graduate department, and a research department, as the board deems necessary to carry out the purpose of Gallaudet University;

(7) confer such degrees and marks of honor as are conferred by colleges and universities generally, and issue such diplomas and certificates of graduation as, in its opinion, may be deemed advisable, and consistent with academic standards;

(8) subject to the provisions of section 403, control expenditures of all moneys appropriated by Congress for the benefit of Gallaudet University; and

(9) control the expenditure and investment of any moneys or funds or property which Gallaudet University may have or may receive from sources other than appropriations by Congress.

PART B—KENDALL DEMONSTRATION ELEMENTARY SCHOOL

AUTHORITY OF GALLAUDET UNIVERSITY

SEC. 111. (a) GENERAL AUTHORITY.—For the purpose of providing day and residential facilities for elementary education for individuals who are deaf in order to prepare them for high school and other secondary study, and to provide an exemplary educational program to stimulate the development of similar excellent programs throughout the Nation, and for the purpose of providing national technical assistance and outreach to train parents of deaf infants and children in skills which will assist children to reach their learning potential, the Board of Trustees of Gallaudet University is authorized to maintain and operate Kendall Demonstration Elementary School as a demonstration elementary school for the deaf, to serve primarily residents of the National Capital region.

(b) APPLICABILITY OF LAW.—The provisions of part B of the Education of the Handicapped Act shall apply to the programs described in subsection (a).

PART C—MODEL SECONDARY SCHOOL FOR THE DEAF

AUTHORITY OF GALLAUDET UNIVERSITY

SEC. 121. (a) GENERAL AUTHORITY.—For the purpose of providing day and residential facilities for secondary education for individuals who are deaf in order to prepare them for college and other advanced study, and to provide an exemplary secondary school program to stimulate the development of similarly excellent programs throughout the Nation, the Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 122, to maintain and operate a model secondary school for the deaf to serve primarily residents of the District of Columbia and of nearby States.

(b) APPLICABILITY OF LAW.—The provisions of part B of the Education of the Handicapped Act shall apply to the programs described in subsection (a).

AGREEMENT WITH GALLAUDET UNIVERSITY FOR THE MODEL SECONDARY SCHOOL

SEC. 122. (a) GENERAL AUTHORITY.—The Secretary is authorized to continue an agreement with Gallaudet University for the establishment and operation, including construction and equipment of a model secondary school for the deaf to serve primarily residents of the District of Columbia and of nearby States.

(b) PROVISIONS OF AGREEMENT.—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the model secondary school will be used only for the purposes for which paid and in accordance with the applicable provisions of this Act and the agreement made pursuant thereto;

(2) provide that the University will make an annual report to the Secretary;

(3) provide that in the design and construction of any facilities, maximum attention will be given to excellence of architecture and design, works of art, and innovative auditory and visual devices and installations appropriate for the educational functions of such facilities;

(4) include such other conditions as the Secretary deems necessary to carry out the purposes of this part; and

(5) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the model secondary school will be paid wages of rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(c) SUBMISSION OF REPORT.—The Secretary shall submit the annual report of the University (required by clause (3) of subsection (b)) to the Congress with such comments and recommendations as the Secretary may deem appropriate.

TITLE II—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

AUTHORITY

SEC. 201. For the purpose of providing a residential facility for postsecondary technical training and education for individuals who are deaf in order to prepare them for successful employment, the institution of higher education with which the Secretary has an agreement under this title is authorized to operate and maintain a National Technical Institute for the Deaf.

AGREEMENT FOR THE INSTITUTE

SEC. 202. (a) GENERAL AUTHORITY.—The Secretary is authorized to continue an agreement with an institution of higher education for the establishment and operation, including construction and equipment, of a National Technical Institute for the Deaf. The Secretary, in considering proposals from institutions of higher education to enter into an agreement under this Act, shall give preference to institutions which are located in metropolitan industrial areas.

(b) PROVISIONS OF AGREEMENT.—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the Institute will be used only for the purposes for which paid and in accordance with the applicable provisions of this Act and the agreement made pursuant thereto;

(2) provide that the Board of Trustees or other governing body of the institution, subject to the approval of the Secretary, will appoint an advisory group to advise the Director of the Institute in formulating and carrying out the basic policies governing its establishment and operation, which group shall include individuals who are professionally concerned with education and technical training at the postsecondary school level, persons who are professionally concerned with activities relating to education and training of the deaf, and members of the public familiar with the need for services provided by the Institute;

(3) provide that the Board of Trustees or other governing body of the institution will make an annual report together with an accounting of all indirect costs paid to the institution of higher education under the agreement to the Secretary, which the Secretary shall transmit to the Congress with such comments and recommendations as the Secretary may deem appropriate;

(4) include such other conditions as the Secretary deems necessary to carry out the purposes of this part; and

(5) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the Institute will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5); and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(c) LIMITATION.—If within twenty years after the completion of any construction (except minor remodeling or alteration) for which such funds have been paid—

(1) the facility ceases to be used for the purposes for which it was constructed or the agreement is terminated, unless the Secretary determines that there is good cause for releasing the institution from its obligation, or

(2) the institution ceases to be the owner of the facility,

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

TITLE III—COMMISSION ON EDUCATION OF THE DEAF

COMMISSION ESTABLISHED

SEC. 301. (a) ESTABLISHMENT.—There is established a Commission on Education of the Deaf to make a study of the quality of infant and early childhood education programs and of elementary, secondary, and postsecondary education furnished to deaf individuals.

(b) COMPOSITION.—(1) The Commission shall be composed of 12 members as follows:

(A) Three members shall be appointed by the President.

(B) One member shall be appointed by the Comptroller General of the United States.

(C) Four of the members shall be appointed by the Speaker of the House of Representatives, with the approval of the Majority Leader and the Minority Leader of the House of Representatives.

(D) Four of the members shall be appointed by the President pro tempore of the Senate, with the approval of the Majority Leader and the Minority Leader of the Senate.

(2)(A) Members of the Commission shall be appointed from among individuals who have broad experience and expertise in program evaluation, deafness, education, or rehabilitation, which experience and expertise are directly relevant to the issues to be studied by the Commission.

(B) The Chairman shall be appointed jointly by the Speaker of the House of Representatives, with the approval of the Majority Leader and the Minority Leader of the House of Representatives, and the President pro tempore of the Senate, with the approval of the Majority Leader and the Minority Leader of the Senate.

(3) Members of the Commission may not be employed by or be a consultant to the National Technical Institute for the Deaf or Gallaudet University on the date the members of the Commission are appointed or for a period of one year prior to such date.

(4) Of the members appointed by the Speaker of the House of Representatives under paragraph (1)(C), at least one must be deaf and not more than two may be from the same political party. Of the members appointed by the President pro tempore of the Senate under paragraph (1)(D), at least one must be deaf and not more than two may be from the same political party.

(5) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(6) Members of the Commission shall be appointed not later than thirty days after the date of enactment of this Act.

DUTIES OF THE COMMISSION

SEC. 302. (a) STUDY DESCRIBED.—(1) The Commission shall make a study of—

(A) the degree to which appropriate postsecondary educational opportunities are available to deaf individuals;

(B) the advisability of expanding the number of federally supported postsecondary regional educational programs which serve the deaf;

(C) the training and technical assistance needs of infant and early childhood education programs and elementary, secondary, and postsecondary programs which serve the deaf;

(D) the degree to which appropriate elementary and secondary educational opportunities are available to deaf students including (i) the effects of part B of the Education of the Handicapped Act on elementary and secondary educational programs for the deaf and (ii) the role played by the Model Secondary School for the Deaf and the Kendall Demonstration Elementary School;

(E) the role of research, development, dissemination, and outreach activities conducted by Gallaudet University and the National Technical Institute of the Deaf in education of the deaf;

(F) any other issues which the Commission determines will improve the quality of elementary, secondary, and postsecondary education provided to the deaf; and

(G) any other recommendations to improve quality or increase cost effectiveness of providing the education of the deaf.

(2) The study of each field described in paragraph (1) shall include a description of the findings in each such field together with recommendations for actions designed to address identified needs.

(b) REPORTS.—The Commission shall submit to the President and to the Congress such interim reports as it deems advisable, and not later than eighteen months after the date of enactment of this Act, a final report of its study and investigation together with such recommendations, including specific proposals for legislation, as the Commission deems advisable.

(c) TERMINATION.—The Commission shall cease to exist ninety days following the submission of its final report.

ADMINISTRATIVE PROVISIONS

SEC. 303. (a) PERSONNEL.—(1) The Commission may appoint such personnel, including a Staff Director, as the Commission deems necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

(2) The Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(b) HEARINGS; QUORUM.—(1) The Commission or, with the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

(2) Six members of the Commission shall constitute a quorum, but a lesser number of two or more may conduct hearings.

(c) CONSULTATION.—In carrying out its duties under the Act, the Commission shall consult with Gallaudet University, the National Technical Institute for the Deaf, other programs and agencies serving or representing the interests of deaf people, other Federal agencies, representatives of State and local governments, State and local educational agencies, and private organizations to the extent feasible.

(d) INFORMATION; STATISTICS.—(1) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality (including the General Accounting Office), information, suggestions, estimates, and statistics for the provisions of this title. Each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

(2) For the purpose of securing necessary data and information the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies.

(e) AGENCY COOPERATION.—(1) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this title.

(2) The Commission is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local and private agencies with or without reimbursement.

(f) GIFTS.—The Commission is authorized to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission shall be paid by the donor or the representative of the donor to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter the gifts in a special account to the credit of the Commission for the purposes in each case specified.

COMPENSATION OF MEMBERS

SEC. 304. (a) UNITED STATES OFFICER AND EMPLOYEE MEMBERS.—Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(b) PUBLIC MEMBERS.—Members of the Commission who are not officers or full-time employees of the United States shall receive compensation at a rate equal to the daily equivalent of the pay rate specified for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of duties vested in the Commission. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

TITLE IV—GENERAL PROVISIONS

DEFINITIONS

SEC. 401. As used in this Act—

(1) The term "Board of Trustees" means (unless the context requires otherwise) the Board of Trustees of Gallaudet University established under section 103.

(2) The term "construction" includes construction and initial equipment of new buildings, and expansion, remodeling, and alteration of existing buildings and equipment thereof, including architect's services, but excluding off-site improvements.

(3) The term "elementary school" means a school which provides education for deaf children from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent.

(4) The term "Institute" means the National Technical Institute of the Deaf.

(5) The term "institution of higher education" means an educational institution in any State or in the District of Columbia which (A) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (B) is legally authorized within such State (or in the District of Columbia) to provide a program of education beyond secondary education, (C) provides an educational program for which it awards a bachelor's degree, (D) includes one or more professional or graduate schools, (E) is a public or nonprofit private institution, and (F) is accredited by a nationally recognized accrediting agency or association. For the purpose of this clause, the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority as to the quality of training offered.

(6) The term "secondary school" means a school which provides education in grades nine through twelve, inclusive.

(7) The term "Secretary" means the Secretary of Education.

GIFTS

SEC. 402. (a) GALLAUDET UNIVERSITY.—Gallaudet University is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of said Gallaudet University, or for the use of any of its departments or other units as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The National Technical Institute for the Deaf is authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of said Institute, or for the use of any of its programs as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

AUDIT

SEC. 403. (a) GENERAL ACCOUNTING OFFICE AUTHORITY.—All financial transactions and accounts of the corporation or institution of higher education, as the case may be, in connection with the expenditure of any moneys appropriated by any law of the United States—

(1) for the benefit of Gallaudet University or for the construction of facilities for its use; or

(2) for the benefit of the National Technical Institute for the Deaf or for the construction of facilities for its use,

shall be settled and adjusted in the General Accounting Office.

(b) INDEPENDENT AUDIT.—Gallaudet University and the institution of higher education operating the National Technical Institute for the Deaf shall have an independent audit made of the programs and activities of the University and of the Institute, as the case may be.

REPORTS

SEC. 404. (a) GALLAUDET UNIVERSITY.—The Board of Trustees of Gallaudet University shall annually prepare and submit a report to the Secretary as soon as practicable after the first day of October of each year the condition of the corporation, including—

(1) the number of students of each description received and discharged during the preceding school year and the number remaining;

(2) the branches and type of training and education taught and progress made therein;

(3) a statement showing the receipts of said corporation and from what sources; and

(4) its expenditures and for what objects.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 202 shall prepare and transmit to the Secretary a report on the activities of the Institute, pursuant to the agreement under section 202(b)(3).

(c) MONITORING AND EVALUATION REPORT.—The Secretary, as part of the annual report required under section 426 of the Department of Education Organization Act, shall include a description of the monitoring and evaluation activities pursuant to section 405, together with such recommendations, including recommendations for legislation, as the Secretary deems necessary.

MONITORING AND EVALUATION ACTIVITIES

SEC. 405. The Secretary shall conduct monitoring and evaluation activities of the education programs and activities and the administrative operations of Gallaudet University and of the National Technical Institute for the Deaf. In carrying out the responsibilities described in this section, the Secretary is authorized to employ such consultants as may be necessary pursuant to the provisions of section 3109 of title 5, United States Code.

PROJECT OFFICER FOR EDUCATIONAL PROGRAMS FOR THE DEAF

SEC. 406. Not later than thirty days after the date of enactment of this Act, the Secretary shall appoint a project officer in the Office of Special Education and Rehabilitation Services of the Department of Education from among individuals who have experience and expertise in the education of the deaf to have responsibility for programs authorized by this Act. The project officer shall report directly to the Secretary. The project officer shall—

(1) coordinate the activities of Gallaudet University, the National Technical Institute for the Deaf, and other postsecondary educational programs for the deaf under the Education of the Handicapped Act and the Rehabilitation Act of 1973 to insure the provision of quality education to deaf individuals and avoid unnecessary duplication;

(2) review and comment on plans and other materials submitted by Gallaudet University and the National Technical Institute of the Deaf relating to research and demonstration activities, outreach activities, dissemination of information activities, technical assistance, and development of instructional materials; and

(3) assist in the preparation of budget requests with respect to programs authorized by this Act.

OVERSIGHT AND EFFECT OF AGREEMENTS

SEC. 407. (a) OVERSIGHT ACTIVITIES.—Nothing in this Act shall be construed to diminish the oversight activities of the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives with respect to any agreement entered into between the Secretary of Education and Gallaudet University, and the institution of higher education with which the Secretary has an agreement under title II.

(b) CONSTRUCTION OF AGREEMENTS.—The agreements described in subsection (a) of this section shall continue in effect, insofar such agreements are not inconsistent with the provisions of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 408. (a) GALLAUDET UNIVERSITY.—There are authorized to be appropriated—

(1) $65,300,000 for the fiscal year 1987;

(2) $69,000,000 for the fiscal year 1988;

(3) $73,100,000 for the fiscal year 1989;

(4) $77,400,000 for the fiscal year 1990; and

(5) $82,000,000 for the fiscal year 1991,

to carry out the provisions of the Act, relating to—

(A) Gallaudet University,

(B) part B of title I, relating to Kendall Demonstration Elementary School, and

(C) part C of title I, relating to the model secondary school for the deaf.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—There are authorized to be appropriated—

(1) $33,700,000 for the fiscal year 1987;

(2) $35,700,000 for the fiscal year 1988;

(3) $37,800,000 for the fiscal year 1989;

(4) $40,000,000 for the fiscal year 1990; and

(5) $42,400,000 for the fiscal year 1991,

to carry out the provisions of title II, relating to the National Institute for the Deaf.

(c) COMMISSION ON EDUCATION FOR THE DEAF.—There are authorized to be appropriated such sums as may be necessary, but not more than $1,000,000 to carry out the provisions of title III, relating to the Commission on Education of the Deaf. Sums appropriated pursuant to this subsection shall remain available until expended or until the

termination of the Commission, whichever first occurs.

REPEALS

SEC. 409. (a) GALLAUDET COLLEGE.—The Act entitled "To amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes", approved June 18, 1954 (other than section 9) is repealed.

(b) KENDALL DEMONSTRATION ELEMENTARY SCHOOL.—The Act entitled "To modify and enlarge the authority of Gallaudet College to maintain and operate the Kendall School as a demonstration elementary school for the deaf to serve primarily the National Capital region, and for other purposes", approved December 24, 1970, is repealed.

(c) MODEL SECONDARY SCHOOL FOR THE DEAF.—The Model Secondary School for the Deaf Act is repealed.

(d) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—The National Technical Institute for the Deaf Act is repealed.

The amendment was agreed to.

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

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bills were passed.

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

The motion to lay on the table was agreed to.

COMBINED FEDERAL CAMPAIGN EFFORT

Mr. SIMPSON. Mr. President, just very quickly let me recognize the efforts of my colleagues. Each year in the Senate we have a major fundraising drive to assist in the financial support of over 300 volunteer agencies operating locally, nationally, and around the world.

This year, thanks to the inspiration and energetic work of the Senate combined Federal Campaign "Keyworkers," and especially, Gigi Taggart of my staff who acted as coordinator of this effort on my behalf, the Senate surpassed its goal of $90,000.

As Senate Chairman of the Combined Federal Campaign, I made a personal promise to the National Chairperson of the Combined Federal Campaign, Secretary of Transportation Elizabeth Dole, that the Senate would make a determined effort to reach our goal. We exceeded our predetermined goal for the campaign by raising, to date, $96,000 for the Combined Federal Campaign—the most successful such effort in the history of the Senate. It was, indeed, a most stirring sight to observe the Senate achieve 106 percent of its target.

Mr. President, I pay my deep respects to our fine Majority Leader BOB DOLE, and to the able Minority Leader, Senator BYRD, for their fine efforts on behalf of the campaign. I do thank them for their assistance in reaching this remarkable goal.

Allow me to once again extend my sincerest appreciation to all those who gave of themselves in order to "Give Somebody a Chance," which was the theme of this year's effort. Indeed, all of my colleagues did give somebody a chance and this gives me a chance to thank them all deeply for their participation. It was the spirit of voluntarism in its finest form.

It is the kind of activity we all used to do in our other lives and to do it here now I think is most appropriate.

THE IMPORTANCE OF VOLUNTEER SERVICES

Mr. DECONCINI. Mr. President, I am pleased to be a cosponsor of Senate Concurrent Resolution 136 offered by my distinguished colleague, Senator GRASSLEY, to express the sense of Congress that experience in volunteer work should be taken into account by the Federal Government, State and local governments, charitable and service organizations, and private employers in the consideration of applicants for employment, and that provision should be made for a listing and description of volunteer work on employment application forms.

Americans have a long history of voluntarism providing services and assistance to our needy citizens. Voluntary organizations, made up of people from all walks of life, have fed the hungry, aided the elderly, read to the blind and made toys for children. Volunteers have filled in when a helping hand was needed by anyone of any race, color, or creed, both here and abroad.

At least one out of two American adults, in some individual or group way, volunteers a good part of his or her time to cope with a crisis or unmet need in the community where he or she lives. This is evidenced by such activities as the Peace Corps, ACTION, Vista, Farm Aid, Hands Across America and so on.

Mr. President, persons who engage in various volunteer work are estimated to provide over $65 billion in services to the people and communities of these United States. I, for one, think that this experience in volunteer service should be taken into account by the local, State and Federal governments, charitable and civic organizations, and private employers in the consideration of applications for employment, and that provisions should be made for the description of such work on the application forms.

Volunteer service is generally referred to as an contribution of time without monetary pay. Historically, it has been thought of as a regular commitment to schools, museums, churches, social service agencies, nursing homes, hospitals, and other civil organizations which provide needed services. More recently volunteer service has included assistance by informal self-help groups such as neighborhood "watches" to reduce crime, hot/line operations for drug abuse, activities for political change, cleaning a neighborhood park and other "grass roots" advocacy and community improvement activities. Volunteer service also may be a one-time action such as helping an elderly shut-in or selling items for a school fund raiser.

According to a survey by the Gallup Organization, an estimated 84 million Americans aged 13 and over volunteered in 1980 for many nonprofit organizations, groups, and individuals. This represents many "manpower-hours" and deserves to be reorganized as important, valuable work. This country would be a lot less well off if it were not for the millions of persons who donate their time and money to make life a little better for those who are in need.

Mr. President, the Gallup poll also reveals that most often the volunteer is an adult woman. Since an increasing number of women are now joining the job market, I feel that it is extremely important for them to translate their voluntary experiences into appropriate consideration by their prospective employers.

We must continue to find innovative ways to recruit volunteers and encourage employers to support and promote voluntary participation for meeting many of our public needs. I strongly feel that recognition of voluntary service, by males or females, on employee applications will stimulate initiative and involvement in our community social and cultural services and that is the purpose of this resolution. Volunteer-dependent nonprofit organizations often experience difficulty in recruiting volunteers as a result of the changing trends and economic conditions in our country today. Therefore, I urge my fellow colleagues to support this resolution to help sustain our voluntary manpower in America, and I commend Senator GRASSLEY for offering it.

CALL TO CONSCIENCE

Mr. BENTSEN. Mr. President, some human tragedies do not make headlines. Sometimes chronic problems fade into the background as we try to deal with acute crises.

I want to add my voice to the Congressional Call to Conscience on Soviet Jews so that we will not forget or neglect those long-suffering people, and so that they will know the depth and breadth of our concern.

Time and again in recent years, Congress has spoken with forceful unanimity on this matter. Last year, shortly before the Reagan-Gorbachev summit, we wrote to the President urging him to use "every available

means," including the arms control negotiations talks with the Soviets, to promote the cause of freedom for Soviet Jews. We also enacted legislation which calls upon the Soviet Union to "allow thousands of Jews who wish to emigrate, or to be repatriated to their homeland, and who have requested exit permits to leave the U.S.S.R. this year," and to pledge to deal expeditiously with future requests.

We have spoken, but our pleas have gone unheeded. Regrettably, the Soviet Union has continued its repressive policies. Jewish emigration remains only a trickle— a low of 47 in March and merely 1,140 during all of 1985. The new leadership seems firmly commited to the old policies of denying its citizens the basic human rights of religious practice and freedom of emigration.

The freeing of Anatoly Shcharansky proved to be a singular event. We have not yet been able to celebrate the long-sought release of Andrei Sakharov, Ida Nudel, and thousands of others who continue to suffer, their petitions to leave denied.

Until Soviet Jews can enjoy their fundamental freedoms, either in their native land or abroad, we must continue to speak out on their behalf. And so long as they suffer Soviet repression, we must reassure them that we remember * * * we care * * * and we hope.

CEREMONY COMMEMORATING VICTIMS OF THE HOLOCAUST

Mr. BYRD. Mr. President, I was privileged today to be asked to speak at a most moving ceremony commemorating the victims of the Holocaust.

I ask unanimous consent that my remarks delivered at the Holocaust memorial service be included in the RECORD at this point.

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

REMARKS OF SENATOR ROBERT C. BYRD AT HOLOCAUST MEMORIAL SERVICE

Distinguished guests, today the Congress of the United States pauses in its deliberations to take part in "Days of Remembrance of Victims of the Holocaust," which this year occurs May 4-11.

As we briefly lay aside the problems and promises confronting our Nation today to memorialize the supreme tragedy of more than 40 years ago, there are no more appropriate locations in which to do this than here in the Capitol rotunda.

This rotunda is a symbol of all that the unspeakable crimes of the Holocaust tried to eliminate—human rights, individual liberties, the independence of nations living in freedom. Our holding of this ceremony here symbolizes the ultimate triumph of these values—which other democratic nations also cherish—over the unspeakable negation of those principles embodied by the Holocaust.

Today we gather here to remember those who died during this period of the greatest evil of modern history. We gather to give solace to those who survived and to those who lost loved ones.

We gather to honor those who resisted—by force of arms or by strength of will—and those who helped others to resist and escape mass extermination.

Finally, we gather to condemn those who stood by to permit these atrocities and those who committed them.

The memories of the Holocaust are painful, especially to those who suffered through it and to those whose family members did not survive. These memories are frightening to the generations which did not live at that time, and which are trying to understand how such horrible crimes against humanity could occur, and could be allowed to occur.

As painful as these memories are, however, they must be remembered, so that all who hear them might resolve that such evil never again will occur.

Today's ceremony is part of this process of mourning and remembrance, and of rededication by all of us—as individuals and as a nation—to respect and defend human rights and human liberties.

By this rededication, we pay the highest tribute to those victims of the Holocaust whom we remember today.

SOUTH CAROLINA GENERAL ASSEMBLY PASSAGE OF CONCURRENT RESOLUTION, ENDORSING PRESIDENT REAGAN'S ACTION AGAINST LIBYAN LEADER, MU'AMMAR QADHAFI

Mr. THURMOND, Mr. President, I would like to call the attention of my colleagues to a concurrent resolution recently passed by the South Carolina General Assembly commending President Reagan for his courageous and decisive action in response to Libyan terrorism sponsored by its infamous leader, Colonel Mu'ammar Qadhafi.

I am extremely proud that my State has responded in this manner, showing enthusiastic support for our President, as well as an understanding that terrorism is an evil to be challenged at every level of government.

These State legislators are to be commended for introducing this most timely and important resolution, and I ask unanimous consent that it be printed in the RECORD.

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

A CONCURRENT RESOLUTION COMMENDING PRESIDENT RONALD REAGAN FOR HIS COURAGEOUS AND DECISIVE ACTION TO PREEMPT AND DISCOURAGE THE LIBYAN TERRORISM SPONSORED BY ITS INFAMOUS LEADER, COLONEL MU'AMMAR QADHAFI

Whereas, Colonel Mu'ammar Qadhafi has used his country of Libya to encourage, equip, direct, and train a despicable and contemptible network of terrorists; and

Whereas, from the supposed sanctity of his Libyan redoubt he has issued threats of impending worldwide terrorism, particularly singling out the United States of America and its citizens; and

Whereas, the President of the United States, sensing the danger to world peace, safety, security, and freedom, ordered a surgical strike against terrorist encampments and training areas in Libya; and

Whereas, The President's deliberative action to exorcise this cancer from the civilized world is endorsed by the thoughtful and concerned citizens of this State. Now, therefore, be is

Resolved by the House of Representatives, the Senate concurring, That the members of the General Assembly of the State of South Carolina commend President Ronald Reagan for his courageous and decisive action to preempt and discourage the Libyan terrorism sponsored by its infamous leader, Colonel Mu'ammar Qadhafi.

MFA LETTER AND MARCH 1986 IMPORTS

Mr. THURMOND. Mr. President, today 69 of my Senate colleagues joined me in sending a letter to President Reagan urging him to strengthen and more aggressively implement the Multi-Fiber Arrangement [MFA]. The MFA is an international agreement which regulates world trade in textiles and apparel. Negotiations are underway on a new MFA to replace the current agreement which expires on July 31, 1986. A stronger, more effective MFA is necessary to prevent further job losses, restore lost jobs, increase capital investment and stimulate production in the domestic textile and apparel industry.

In our letter, we urged the President to include in the new MFA a provision to limit the rate of import growth in the rate of domestic market growth. That policy is consistent with the commitment President Reagan made to me in 1980 and reaffirmed in 1982. Also we said in our letter that importing countries, such as the United States, should be able to reduce trade levels from major exporting countries. This is necessary to allow small countries increased world market access and to prevent the markets of our domestic producers from being constantly eroded. In addition, we stated that measures to combat quota fraud must be established which would allow importing countries to take unilateral action against those engaging in such practices. The unilateral action should allow countries to reduce imports to levels which would have existed but for such illegal activities.

Mr. President, 70 Members of the U.S. Senate signed the MFA letter to the President because we recognize the importance of a more efficient and effective textile trade policy. In the House, 302 Members have signed a similar letter as well.

Over 2 million hard-working Americans in all 50 States are employed by this vital industry and another 2 million are employed in related areas. One out of every 10 manufacturing jobs in our Nation are in this industry which the Defense Department ranks second only to steel in importance to national defense. Our status as a world

power hinges on a strong manufacturing base. Steps must be taken to ensure the survival of our textile and apparel production sector.

Mr. President, the Commerce Department recently released textile and apparel import figures for the month of March. I wish they indicated good news for our beleaguered domestic industry. Unfortunately, they constitute more bad news. In fact, the March level of textile and apparel represents the second highest monthly level ever recorded. Imports in March of this year were up 21.6 percent over March of last year. For the first quarter of 1986, textile and apparel imports are up 25.6 percent over the first quarter of 1985. Textile imports alone increased 33 percent in this same time period.

Mr. President, textile and apparel imports are absolutely out of control. Our domestic industry cannot survive if these import surges are allowed to continue. It is imperative that strong action be taken to preserve jobs in this vital industry. I urge the administration to work to strengthen the MFA by pushing for the elements we outlined in our letter to President Reagan.

Mr. President, I ask unanimous consent that the letter to President Reagan from myself and 69 other Senators be printed at this point in the RECORD.

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

U.S. SENATE,
Washington, DC, May 5, 1986.

The President,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: In recognition of the serious trade problem facing the textile, apparel and fiber industry, Congress passed last year the Textile and Apparel Trade Enforcement Act as a legislative solution. We are convinced that there must be decisive action in 1986 to solve this pressing domestic problem. It is in this context that Congress will consider your veto of H.R. 1562.

Our objective is the same as that which you stated in your repeated commitment: To relate import growth from all sources to domestic market growth. That can be done legislatively and through the forceful implementation of all provisions of a new Multi-Fiber Arrangement (MFA).

In your veto message you promised "to most aggressively renegotiate the Multi-Fiber Arrangement." The negotiation of a new MFA offers an important opportunity to address these concerns. Your Administration has already indicated that it will seek a new MFA with provisions to include all types of fibers, and to prevent damaging import surges. Notwithstanding these initiatives, and at a bare minimum, the following additional elements must be added to the current MFA:

The MFA should recognize the validity of a policy of preserving strong domestic fiber, textile and apparel industries by limiting import growth to domestic market growth and must permit importing countries to take measures necessary to accomplish that goal.

Importing countries should be provided the ability to impose measures that reduce trade levels from those countries predominant in exporting textiles and apparel so that new entrants and small countries will have increased market opportunities, and the markets of domestic producers will not be constantly eroded.

Measures to combat quota fraud must be established which allow importing countries to take unilateral action penalizing those engaging in such practices and reducing imports to levels which would have existed but for such practices.

Furthermore, we believe that the Administration's textile trade program can be improved immediately through enforcement of U.S. rights under the terms of the current MFA. The stated policy of your Administration is to relate import growth to domestic market growth, and to that end, the following actions are needed:

Renegotiate bilateral agreements with foreign countries to establish overall limits on fiber, textile and apparel imports, and to significantly reduce the market share held by major foreign suppliers.

Establishment of quotas under the MFA and bilateral agreements at minimum permitted levels as soon as the market disruption criteria established in your announcement of December 16, 1983 are met.

Forceful and timely use of the MFA, coupled with implementation of a new enforcement program to guarantee control by the United States Government.

All these steps are necessary to prevent further job losses, to restore lost jobs, to increase capital investment and to stimulate domestic production by the natural and man-made fiber, textile and apparel industries, and related industries dependent on this important manufacturing and agricultural complex.

Respectfully,

Ernest F. Hollings, Jesse Helms, George Mitchell, Sam Nunn, Howell Heflin, Strom Thurmond, Daniel P. Moynihan, John Warner, Mack Mattingly, Bill Cohen, John Heinz, Thomas Eagleton, Chris Dodd, Paula Hawkins, Warren B. Rudman, Albert Gore, John H. East, Al Simpson, Bill Armstrong, Chuck Grassley, Mitch McConnell, John Glenn, Arlen Specter, Edward M. Kennedy, Paul Tribble, Thad Cochran, Paul Sarbanes, Claiborne Pell, Alfonse D'Amato, Bob Dole, Orrin Hatch, John Chafee, Jake Garn, Wendell Ford, Jim Sasser, Jay Rockefeller, Bill Roth, William Proxmire, Lowell Weicker, James A. McClure, Joe Biden, Carl Levin, Paul Laxalt, John Kerry, Robert Byrd, Robert Kasten, Jeremiah Denton, Charles McC. Mathias, Pete Domenici, Don Riegle, Howard Metzenbaum, Dale Bumpers, Frank Lautenberg, Lloyd Bentsen, John Stennis, Ted Stevens, Bennett Johnston, Paul Simon, Patrick Leahy, Dennis DeConcini, Larry Pressler, Quentin Burdick, Lawton Chiles, Alan Dixon, Jack Danforth, David Pryor, Tom Harkin, Russell Long, John Melcher and Max Baucus.

MOTHER'S DAY, 1986

Mr. PRESSLER. Mr. President, May 11 is Mother's Day and I believe it would be very appropriate to take notice in the U.S. Senate of this annual observance. Every one of us is a son or a daughter, and I am sure that many of my colleagues could testify on the way their careers were shaped by the support and guidance of their parents.

Many things have changed in recent decades, but the family is still the bulwark of American society. The early comfort and guidance we receive at home shapes our lives irrevocably. We like to think that on the family farms and in the small towns and cities of South Dakota, family values are especially well-preserved.

This Capitol is filled with statues of great men and paintings of heroic deeds. The contribution made by the millions of women who spent their lives raising and teaching their families is much harder to depict in a sculpture or fresco, yet it is no less important.

When we hear talk of the future, we tend to think of satellites or high technology. It is worth remembering that every mother literally creates and shapes the future. We should pay more attention to the people who nurtured us, and who are even now caring for the men and women who will be running the country when we have all retired.

Each year I make it my practice to send a Mother's Day note of recognition to the mothers of my staff members, both in Washington and in my South Dakota State offices. I do this because my constituents and I expect and obtain a high standard of performance from the people who work in the office of the senior Senator from South Dakota. The character and training that prepares people for demanding jobs on Capitol Hill must largely come from family and community influences.

This year I would like to offer a tribute to America's mothers here on the floor of the U.S. Senate. There may be no marble memorial in Washington for them, but the result of their work and sacrifice is all around us.

MESSAGES FROM THE HOUSE

At 2:23 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 381. An act for the relief of Mishleen Earle.

The message also announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 1207. An act to award a special gold medal to the family of Harry Chapin; and

H.J. Res. 609. Joint resolution to designate May 5 through 11, 1986, as "Public Service Recognition Week".

71-059 O-87-26 (Pt. 7)

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

H.R. 739. An act to make miscellaneous changes in laws affecting the United States Coast Guard, and for other purposes;

H.R. 4022. An act to release restrictions on certain property located in Calcasieu Parish, Louisiana, and for other purposes;

S.J. Res. 284. Joint resolution to designate the month of May 1986 as "Better Hearing and Speech Month";

S.J. Res. 285. Joint resolution to designate the week of May 11, 1986, through May 17, 1986, as "National Osteoporosis Awareness Week of 1986";

S.J. Res. 289. Joint resolution to designate 1988 as the "Year of New Sweden" and to recognize the New Sweden 1988 American Committee; and

S.J. Res. 293. Joint resolution to designate the month of May 1986 as "National Child Safety Month".

H.J. Res. 544. Joint resolution to designate May 7, 1986, as "National Barrier Awareness Day"; and

H.J. Res. 569. Joint resolution to designate May 8, 1986, as "Naval Aviation Day".

The enrolled bills and joint resolutions were subsequently signed by the President pro tempore [Mr. THURMOND].

MEASURES REFERRED

The following joint resolution was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 609. Joint resolution to designate May 5 through 11, 1986, as "Public Service Recognition Week"; to the Committee on the Judiciary.

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, May 6, 1986, she had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 284. Joint resolution to designate the month of May 1986 as "Better Hearing and Speech Month";

S.J. Res. 285. Joint resolution to designate the week of May 11, 1986, through May 17, 1986, as "National Osteoporosis Awareness Week of 1986";

S.J. Res. 289. Joint resolution to designate 1988 as the "Year of New Sweden" and to recognize the New Sweden 1988 American Committee; and

S.J. Res. 293. Joint resolution to designate the month of May 1986 as "National Child Safety Month".

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-654. Joint resolutions adopted by the Legislature of the State of Montana; to the Committee on Agriculture, Nutrition, and Forestry.

"HOUSE JOINT RESOLUTION NO. 2

"Whereas, the Montana agricultural economy is under severe financial stress due to low commodity prices, drought, reduced exports, continuing high interest rates, and declining land values; and

"Whereas, the number of farm foreclosures in Montana during 1985 reached a level not seen since the Great Depression; and

"Whereas, many agriculture-related businesses in Montana communities are going out of business, reflecting the financial problems of farmers and ranchers in this state; and

"Whereas, the current financial crisis in agriculture poses serious problems for Montana financial lenders; and

"Whereas, many of Montana's agricultural producers currently face a severe shortage of operating capital; and

"Whereas, Congress could improve the capacity of financial lenders to make agricultural credit available to farmers and ranchers by expanding the Farmers Home Administration loan guarantee and interest rate buydown programs; and

"Whereas, many small, rural community businesses depend upon low interest financing through the Small Business Administration; and

"Whereas, agricultural land values, which have declined as much as 50% in the last 5 years, could be stabilized by creation of a secondary market for farm real estate similar to the secondary markets established by Congress for the housing industry. Now, therefore, be it

"Resolved by the Senate and the House of Representatives of the State of Montana: That the Legislature of the State of Montana urge the United States Congress to enact temporary legislation to help agricultural borrowers and lenders survive the current financial crisis in Montana agriculture. Be it further

"Resolved, that Congress: (1) expand the Farmers Home Administration loan guarantee and interest rate buydown programs; (2) preserve the guaranteed loan program administered by the Small Business Administration to assist businesses in rural farm communities; and

"(3) create a secondary market for farm real estate to stabilize agricultural land values. Be it further

"Resolved, that the Secretary of State send a copy of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and to each member of the Montana Congressional Delegation."

"HOUSE JOINT RESOLUTION NO. 3

"Whereas, legislation has been introduced in the United States Congress to impose an excise tax on imported oil; and

"Whereas, in hearing S. 1507, S. 1997, and H.R. 3838, the Congress is considering imposition of an excise tax between $5 and $10 per barrel on imported crude oil; and

"Whereas, it is estimated that a $10-per-barrel import oil tax would add 24 cents to the price of each gallon of petroleum fuel; and

"Whereas, a $10 import oil tax would result in approximately $36 million in increased costs for energy and petroleum products purchased by Montana farmers and ranchers; and

"Whereas, Montana farmers and ranchers cannot add production cost increases, such as an oil import tax, to the price of their products because individually they do not have sufficient market power to set prices; and

"Whereas, the increased costs of production resulting from an oil import tax would be borne by Montana farmers and ranchers; and

"Whereas, depressed commodity prices and increased production costs have reduced net farm income, threatening the financial survival of many Montana farmers and ranchers; and

"Whereas, an oil import tax would further reduce net farm income by raising production costs and thereby make an already critical financial situation in agriculture even worse. Now, therefore, be it

"Resolved by the Senate and the House of Representatives of the State of Montana: That the Legislature of the State of Montana urgently request the United States Congress not to enact legislation imposing an excise tax on imported crude oil. Be it further

"Resolved, that the Secretary of State send a copy of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and the Montana Congressional Delegation."

POM-655. A resolution adopted by the Senate of the State of Michigan; to the Committee on Armed Services:

"Whereas, The people of Michigan share with citizens throughout the United States a strong commitment to peace in the world. The trend in stockpiling nuclear weapons by the United States and the Soviet Union is a very real and serious threat not only to peace, but to the future of humankind; and

"Whereas, Since the advent of the atomic age, the world's two principal powers have acted upon a policy of mutual assured destruction. The fear of nuclear conflagration has left its imprint on many aspects of our life and governmental policies; and

"Whereas, In recent years, however, tremendous technological advances have made it possible to turn to satellites and advanced systems as a means of neutralizing the threat which has imperiled our planet for more than a generation. This concept of mutual assured survival is often referred to as "High Frontier" technology, through which satellites would intercept and destroy nuclear missiles targeted at the United States or its allies. The "High Frontier" technology, where weapons would be used solely for defensive purposes against other weapons, is non-nuclear strategic defensive initiative which could also serve to deter the use of nuclear weapons. The implementation of such a system would not require our present retaliatory capabilities to be abandoned. Instead, it would reflect a commitment to the development of technology that would destroy weapons and not lives, using means other than nuclear devices; now, therefore, be it

"Resolved by the Senate, That the members of this legislative body hereby memorialize the Congress of the United States to endorse the concept of mutual assured survival and to pursue the "High Frontier" technology as a method of eliminating the threat to world peace caused by the proliferation of nuclear weapons; and be it further.

"Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United State House of Representatives, and to the members of the Michigan congressional delegation."

POM-656. A joint resolution adopted by the Legislature of the State of Minnesota; to the Committee on Energy and Natural Resources:

"RESOLUTION

"Whereas, the Mississippi River traverses ten states and has a profound impact on the commerce, tourism, and manufacturing in those states; and

"Whereas, the river's course is abundant in historical sites, natural areas, wildlife refuges, industrial sites, population centers, and other areas that are integral to our national heritage; and

"Whereas, it is appropriate that the federal government undertake significant efforts to retain, enhance, and interpret, for present and future generations, the cultural, historical, natural, recreational, and economic resources of the corridor that are consistent with industrial and economic growth; and

"Whereas, the Congress of the United States is considering the Mississippi River National Heritage Corridor Act of 1986 that, if adopted, will ensure that the above activities in the corridor will be instituted; Now, therefore, be it

"Resolved by the Legislature of the State of Minnesota that it urges the Congress of United States to immediately enact, and the President of the United States approve, the Mississippi River National Heritage Corridor Act of 1986. Be it further

"Resolved that the Secretary of State of the State of Minnesota is directed to prepare certified copies of this memorial and transmit them to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, and to Minnesota's Senators and Representatives in Congress."

POM-657. A resolution adopted by the Round Lake Area School Board of Education, Round Lake, Illinois, opposing certain provisions of H.R. 3838; to the Committee on Finance.

POM-658. A resolution adopted by the President and Board of Trustees of the Garden Homes Sanitary District, Cook County, Illinois, opposing certain provisions of H.R. 3838; to the Committee on Finance.

POM-659. A resolution adopted by the Common Council of the City of Gary, Indiana, opposing certain provisions of H.R. 3838; to the Committee on Finance.

POM-660. A resolution adopted by the Board of Education of School District No. 74, Lincolnwood, Illinois, opposing certain provisions of H.R. 3838; to the Committee on Finance.

POM-661. A resolution adopted by the City Council of Berea, Ohio, supporting the continued exemption of interest on municipal bonds from taxation; to the Committee on Finance.

POM-662. A resolution adopted by the Highland Park School District, Highland Park, Illinois, opposing certain provisions of H.R. 3838; to the Committee on Finance.

POM-663. A resolution adopted by the Township Committee on Bernards, New Jersey, opposing certain provisions of H.R. 3838; to the Committee on Finance.

POM-664. A joint resolution adopted by the Legislature of the State of Maine; to the Committee on Finance.

"JOINT RESOLUTION MEMORIALIZING THE UNITED STATES CONGRESS TO INTRODUCE AND SUPPORT CERTAIN SANCTION INITIATIVES AGAINST SOUTH AFRICA

"We, your Memorialists, the House of Representatives and Senate of the State of Maine of the One Hundred and Twelfth Legislature, now assembled in the Second Regular Session, most respectfully present and petition the Members of the United States Congress, as follows:

"Whereas, South Africa's apartheid is unjust and immoral and an affront to humanity; and

"Whereas, the State of Maine is outraged and affronted by the atrocities in South Africa; and

"Whereas, much can be accomplished by the United States Senate and House of Representatives; now, therefore, be it

"Resolved: That We, your Memorialists, do hereby respectfully urge our United States Senate and House of Representatives to introduce and support sanction initiatives against South Africa, including those which may be introduced in the new Congress to limit the landing rights of South African Airways in the United States and to limit the freedom from double taxation which permits United States corporations to operate in South Africa; and be it further

"Resolved: That a copy of this Joint Resolution, duly authenticated by the Secretary of State, be transmitted by the Secretary of State to the President of the Senate and the Speaker of the House of Representatives in the United States Congress and to each Member of the Maine Congressional Delegation."

POM-665. A resolution adopted by the American Association of University Women opposing any reduction in United States contributions to the United Nations; to the Committee on Foreign Relations.

POM-666. A resolution adopted by the City Council of Berea, OH, favoring the recognition of June 21, 1986 as "Save American Industry/Jobs Day"; to the Committee on the Judiciary.

POM-667. A concurrent resolution adopted by the Legislature of the Commonwealth of Pennsylvania; to the Committee on the Judiciary.

"RESOLUTION

"Whereas, The Pennsylvania Liquor Control Board is the largest single purchaser of wine and liquor in the United States; and

"Whereas, The Pennsylvania Liquor Control Board should be entitled to a price reduction from suppliers for its large-volume purchases; and

"Whereas, "Price affirmation" is a national policy that requires each supplier of wine and liquor to guarantee that its prices are no higher than the lowest price charged elsewhere in the state or nation; and

"Whereas, The Pennsylvania Liquor Control Board must participate in the affirmation process to protect its purchases against higher prices; and

"Whereas, The affirmation policy affords Pennsylvania no price reductions for volume sales; and

"Whereas, The Pennsylvania Liquor Control Board has tried to resolve the affirmation problem through court action; therefore be it

"Resolved (the House of Representatives concurring), That the General Assembly request that the United States Department of Justice Antitrust Division begin to investigate and develop a solution to the affirmation problem, and that the Congress of the United States enact legislation to end this policy; and be it further

"Resolved, That copies of this resolution be transmitted to the United States Department of Justice, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania."

POM-668. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Agriculture, Nutrition, and Forestry:

"HOUSE JOINT RESOLUTION No. 108

"Whereas, current federal regulations for food stamp programs require a combination of prospective and retrospective budgeting methods to determine eligibility and grant amount; and

"Whereas, since irregular income is very common, the prospective method of anticipating income frequently results in an incorrect calculation of earnings that requires constant grant adjustments once income is known; and

"Whereas, this system is complex, prone to error and very difficult for clients to understand in order to provide the information needed for proper calculation; and

"Whereas, while budget calculation is a complex area of eligibility determination and no method is without problems, the operation could be simplified; and

"Whereas, federal regulations require that a food stamp recipient complete a monthly report of any changes in circumstances or be subject to loss of income disregards or program eligibility; and

"Whereas, providing the forms to all recipients and processing such is an expensive endeavor, but the Department of Social Services has sought and received a waiver which requires that only certain recipients report; and

"Whereas, this waiver was based on the states' quality control findings which substantiated that for certain recipients every ten cents saved cost ninety cents in administrative dollars; and

"Whereas, because monthly reporting becomes a condition of eligibility for only specified cases, states are required to adhere to massive federal control and regulation which result in program complexity and an inaccurate reflection of a state's actual performance level; and

"Whereas, in order to add or delete other groups from monthly reporting the states must seek additional waivers, which cost a great deal in terms of staff hours and money lost during the application process; and

"Whereas, the requirement addressed here is the structured monthly report, and any change would in no way affect the requirement of reporting changes in circumstances by recipients; now therefore, be it

"Resolved by the House of Delegates, the Senate concurring, That the General Assembly of the Commonwealth of Virginia does hereby memorialize the Congress of the United States to take whatever steps necessary to enable Virginia to develop a simpler, more appropriate budgeting method for determining food stamp eligibility; and, be it

"Resolved further, That the General Assembly of the Commonwealth of Virginia does also memorialize the United States Congress to take the necessary steps to remove monthly reporting as a condition of eligibility, thereby allowing states the administrative flexibility to use monthly reporting as a tool for error reduction based

on its quality control findings or other data sources and administrative cost information with no intervention from the federal level; and, be it

"Resolved finally, That the Clerk of the House of Delegates transmit copies of this resolution to the United States Department of Agriculture, the Speaker of the United States House of Representatives, the President of the United States Senate and to all members of the Virginia delegation to the United States Congress in order that they may be apprised of the sense of the General Assembly."

POM-669. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Finance:

"HOUSE JOINT RESOLUTION No. 23

"Whereas, each year fires are responsible for the loss of thousands of lives and millions of dollars in damage to valuable property; and

"Whereas, a large portion of these deaths will be caused by uncontrolled fires in commercial and residential properties; and

"Whereas, a majority of these deaths and most of the property damage might be prevented by technology which is now on the market; and

"Whereas, many property owners would utilize this technology if tax incentives existed for the installation of fire suppression systems; and

"Whereas, currently the Congress of the United States is revising the federal tax laws; now, therefore, be it

"Resolved by the House of Delegates, the Senate concurring, That the General Assembly of Virginia does hereby memorialize the Congress of the United States to provide in the revised federal tax laws an incentive to property owners who install fire suppression systems in accordance with Standards 13 and 13D of the National Fire Protection Association in their commercial and residential properties by allowing a ten percent tax credit on the cost of these systems or by designating these systems as short-life depreciable items; and, be it

"Resolved further, That the Clerk of the House of Delegates transmit copies of this resolution to each member of the Virginia Congressional Delegation, the Speaker of the House of Representatives, the President of the United States Senate, and the President of the United States."

POM-670. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Finance:

HOUSE JOINT RESOLUTION No. 91

"Whereas, current federal regulations for Aid to Dependent Children (ADC) require a combination of prospective and retrospective budgeting methods to determine eligibility and grant amount; and

"Whereas, since irregular income is very common, the prospective method of anticipating income frequently results in an incorrect calculation of earnings that requires constant grant adjustments once income is known; and

"Whereas, this system is complex, prone to error and very difficult for clients to understand in order to provide the information needed for proper calculation; and

"Whereas, while budget calculation is a complex area of eligibility determination and no method is without problems, the operation could be simplified; and

"Whereas, federal regulations require that certain Aid to Dependent Children (ADC) recipients complete a monthly report of any changes in circumstances or be subject to loss of income disregards or program eligibility; and

"Whereas, because monthly reporting becomes a condition of eligibility for only specified cases, states are required to adhere to massive federal control and regulation which result in program complexity and an inaccurate reflection of a state's actual performance level; and

"Whereas, in order to add to or delete groups from the monthly reporting process the states must first amend the federally approved state plan which then subjects states to extensive federal oversight to assure compliance of a procedure which states should be allowed to use as a simple management tool; and

"Whereas, the requirement addressed here is the structured monthly report, and any change would in no way affect the requirement of reporting changes in circumstances by recipients; now, therefore, be it

"Resolved by the House of Delegates, the Senate concurring, That the General Assembly of the Commonwealth of Virginia does hereby memorialize the Congress of the United States to take whatever steps necessary to enable Virginia to develop a simpler, more appropriate budgeting method for determining ADC eligibility and grant amounts; and, be it

"Resolved further, That the General Assembly of the Commonwealth of Virginia does also memorialize the United States Congress to take the necessary steps to remove monthly reporting as a condition of eligibility, thereby allowing states the administrative flexibility to use monthly reporting as a tool for error reduction based on its quality control findings or other data sources and administrative cost information with no intervention from the federal level; and, be it

"Resolved finally, That the Clerk of the House of Delegates transmit copies of this resolution to the United States Department of Health and Human Services, the Speaker of the United States House of Representatives, the President of the United States Senate and to all members of the Virginia delegation to the United States Congress in order that they may be apprised of the sense of the General Assembly."

POM-671. A resolution adopted by the Township Committee of Bernards, NJ, opposing certain provisions of H.R. 3838; to the Committee on Finance.

POM-672. A resolution adopted by the Executive Committee of the Federal Bar Association, opposing certain provisions of H.R. 3838; to the Committee on Finance.

POM-673. A resolution adopted by the Commission of the City of Coral Gables, FL, favoring the adoption of tax reform provisions contained in S. 2166; to the Committee on Finance.

POM-674. A resolution adopted by the Legislature of the State of Connecticut; to the Committee on Finance.

"SUBSTITUTE HOUSE JOINT RESOLUTION No. 40

"Whereas, Connecticut was the first state in the nation to begin operating an enterprise zone program; and

"Whereas, Connecticut's enterprise zone program has been very successful in promoting economic development, job creation and the revitalization of inner-city areas; and

"Whereas, Congress is currently considering federal enterprise zone legislation; and

"Whereas, state enterprise zones would be far more successful if such federal legislation were enacted, due to the greater impact of federal tax and regulatory incentives that would be available under such legislation; and

"Whereas, the two largest organizations of elected officials, the National League of Cities and the U.S. Conference of Mayors, as well as business and job training organizations, have endorsed proposed federal enterprise zone legislation; now, therefore, be it

"Resolved, That this general assembly calls upon the Congress of the United States to enact enterprise zone legislation;

"Be it further resolved, That copies of this resolution be sent to the Speaker and the Clerk of the United States House of Representatives, the President and the Secretary of the United States Senate, and to each member of the Connecticut Congressional delegation."

POM-675. A resolution adopted by the House of Representatives of the State of Oklahoma; to the Committee on Foreign Relations:

"RESOLUTION No. 1046

"Whereas, the occurrence of terrorist attacks throughout the world have been steadily increasing during recent times; and

"Whereas, such terrorist attacks are barbarous and cruel and result in the unjustifiable deaths and injuries of innocent people and the damage and destruction of property; and

"Whereas, such a terrorist attack occurred on April 5, 1986, by the explosion of a bomb in a West Berlin disco which was a popular meeting place for United States military personnel stationed in West Berlin; and

"Whereas, as a result of such terrorist attack, two people were killed, including United States Army Sergeant Kenneth Ford, and 230 others were wounded, of wnich 50 were United States military personnel; and

"Whereas, the United States Government has precise and irrefutable evidence linking Libyan leader Moammar Khadafy directly to the terrorist bombing in West Berlin; and

"Whereas, on the basis of such evidence, President Ronald Reagan ordered the military forces of the United States to attack the headquarters and terrorist facilities of Moammar Khadafy which are located in Libya on April 15, 1986, in order to defend and protect the citizens of the United States located throughout the world, now, therefore, be it

"Resolved by the House of Representatives of the 2nd session of the 40th Oklahoma Legislature That the Oklahoma House of Representatives supports and commends the decisions and actions of the President of the United States, Ronald Reagan and the Congress of the United States to defend the citizens of this country by initiating limited military actions against precise targets in Libya which comprise the infrastructure of the worldwide terrorist network of Moammar Khadafy.

"That copies of this resolution be dispatched to the President of the United States, the President Pro Tempore of the United States Senate, the Speaker of the United States House of Representatives and the members of the Oklahoma Congressional Delegation."

POM-676. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION No. 21

"Whereas, on September 28, 1781, the siege on the seaport of Yorktown, which was occupied by British General, Lord Charles Cornwallis, began; and

"Whereas, General George Washington, commanding the war-weary Continental Army, with the able assistance of the French Admiral, Count de Grasse, diligently began his advance upon the British troops; and

"Whereas, on the morning of October 17, 1781, the British asked for an armistice and later surrendered 7,247 British officers and soldiers and 840 seamen at Yorktown and Gloucester Point; and

"Whereas, following this historic surrender only sporadic fighting continued throughout the Colonies, and this decisive victory signaled to all that America had won her struggle for freedom; and

"Whereas, the Victory at Yorktown marks a significant historical event for this great nation in its struggle for independence; now therefore, be it

"Resolved by the House of Delegates, the Senate concurring, That the General Assembly of Virginia hereby memorializes the Congress of the United States to establish October 19th as a national day of observance known as Yorktown Day and as such commemorated appropriately, including the notation on calendars; and, be it

"Resolved further, That the Clerk of the House of Delegates transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the United States Senate and to the members of the Virginia Delegation to the Congress of the United States in order that they may be apprised of the sense of the General Assembly."

POM-677. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Labor and Human Resources:

"HOUSE JOINT RESOLUTION No. 44

"Whereas, significant portions of land within the Commonwealth are owned, leased, and controlled by the United States Government; and

"Whereas, this land cannot be taxed by the Commonwealth or by local governmental units; and

"Whereas, the activities on this land generate the need for state and federal mandated services; and

"Whereas, for the past thirty years the federal government has compensated local school districts for educational services provided to children of parents who work on federal lands; and

"Whereas, the timely and equitable payment for educational services is necessary if those services are to be provided without charging tuition; and

"Whereas, reauthorization of Public Law 874 will be considered in the current session of the Congress; now, therefore, be it

"Resolved by the House of Delegates, the Senate concurring, That the General Assembly hereby requests the Congress of the United States to reauthorize the Impact Aid law for a period not exceeding four years, to include fully funding "A" category pupils; fully funding only military "B" pupils who live in-county at fifty percent of the rate for "A" pupils; fully funding Section 3(d)2(B), which compensates districts with fifty percent or more federally connected pupils; and fully funding Section 2, which provides assistance to school divisions with large amounts of federal tax exempt property."

POM-678. A resolution adopted by the State Delgations to the White House Conference on Small Business in support of the U.S. Small Business Administration; to the Committee on Small Business.

POM-679. A resolution adopted by the House of Representatives of the Commonwealth of Pennsylvania; to the Committee on Veterans' Affairs.

HOUSE RESOLUTION No. 262

"Whereas, Nothing is as essential to a free society as the individuals who went to war to protect the rights and liberties of themselves as well as others; and

"Whereas, Many Americans became POW's and they represent a segment of our society which must never by neglected or forgotten; therefore be it

"Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the President and the United States Congress to enact H.R. 864, which will increase veterans' benefits for former prisoners of war; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LUGAR, from the Committee on Foreign Relations, without amendment, and unfavorably:

S.J. Res. 331. Joint resolution prohibiting the proposed sale of integrated avionics systems kits to the People's Republic of China (with additional views) (Rept. No. 99-293).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Finance:

William L. Roper, of Alabama, to be Administrator of the Health Care Financing Administration;

J. Michael Hudson, of Texas, to be a Deputy Under Secretary of the Treasury.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SYMMS (for himself, Mr. STAFFORD, Mr. BENTSEN, Mr. BURDICK, and Mr. ABDNOR):

S. 2405. A bill to authorize appropriations for certain highways in accordance with title 23, United States Code, and for other purposes; to the Committee on Environment and Public Works.

By Mr. THURMOND:

S. 2406. A bill to amend Title 18, United States Code; to the Committee on the Judiciary.

By Mr. HATCH:

S. 2407. A bill entitled "The Animal Drug Amendments and Patent Term Restoration Act of 1986."; to the Committee on Labor and Human Resources.

By Mr. CRANSTON (for Mr. BAUCUS, (for himself, Mr. CRANSTON, and Mr. BINGAMAN)):

S. 2408. A bill entitled the "Antidumping Act of 1986"; to the Committee on Finance.

By Mr. HATCH (for himself, and Mr. RUDMAN):

S. 2409. A bill to amend the Legal Services Corporation Act to authorize appropriations for 3 fiscal years, to strengthen the provisions of that Act, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BAUCUS (for himself, and Mr. GRASSLEY):

S. 2410. A bill to amend the Social Security Act to provide for improved treatment of small rural hospitals and sole community hospitals under title XVIII and XIX of such Act, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO:

S. 2411. A bill to prohibit possession, manufacture, sale, importation, and mailing of ballistic knives; to the Committee on the Judiciary.

By Mr. McCLURE (for himself, Mr. WALLOP, Mr. GOLDWATER, Mr. HECHT, and Mr. LAXALT):

S. 2412. A bill to withdraw and reserve certain public lands; to the Committee on Energy and Natural Resources.

By Mr. BENTSEN:

S. 2413. A bill to provide that the judicial conferences of each circuit be convened at the discretion of the chief judge of such circuits; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, Mr. METZENBAUM, Mr. KENNEDY, Mr. BIDEN, and Mr. MOYNIHAN):

S. 2414. A bill to amend title 18, United States Code; considered and passed.

By Mr. HART:

S. 2415. A bill to prohibit any Member of Congress from being closely associated with any charitable organization which does not publicly disclose certain information, to establish an advisory panel to recommend solutions concerning unregulated campaign expenditures by such organizations, and for other purposes; to the Committee on Rules and Administration.

By Mr. SIMPSON (for Mr. MURKOWSKI (for himself, Mr. CRANSTON, Mr. SIMPSON, Mr. THURMOND, Mr. SPECTER, Mr. DENTON, Mr. BOSCHWITZ, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. WILSON, and Mr. ABDNOR)):

S. 2416. A bill to revise further the limitation applicable to chapter 37 of title 38, United States Code, for fiscal year 1986, for the purpose of implementing any order issued by the President for such fiscal year under any law providing for the sequestration of new loan guarantee commitments; considered and passed.

By Mr. HATCH:

S.J. Res. 339. A joint resolution to designate the week of November 30, 1986, through December 6, 1986, as "National Home Care Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CHILES (for himself, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. HECHT, Mr. ROCKEFELLER, Mr. WEICKER, Mr. PRESSLER, Mr. BINGAMAN, Mr. GORTON, Mr. INOUYE, and Mr. DODD):

S. Res. 395. A resolution expressing the sense of the Senate that the deduction for State and local taxes be retained; to the Committee on Finance.

By Mr. DURENBERGER:

S. Res. 396. A resolution honoring the Steger International Polar Expedition; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SYMMS (for himself, Mr. STAFFORD, Mr. BENTSEN, Mr. BURDICK, and Mr. ABDNOR):

S. 2405. A bill to authorize appropriations for certain highways in accordance with title 23, United States Code, and for other purposes; to the Committee on Environment and Public Works.

(The remarks of Mr. SYMMS and Mr. BURDICK and the text of the legislation appear earlier in today's RECORD.)

By Mr. THURMOND:

S. 2406. A bill to amend title 18, United States Code; to the Committee on the Judiciary.

(The remarks of Mr. THURMOND and the text of the legislation appear earlier in today's RECORD.)

By Mr. HATCH:

S. 2407. A bill entitled the "Animal Drug Amendments and Patent Term Restoration Act of 1986"; to the Committee on Labor and Human Resources.

ANIMAL DRUG AMENDMENTS AND PATENT TERM RESTORATION ACT

Mr. HATCH. Mr. President, I am pleased to introduce today the Animal Drug Amendments and Patent Term Restoration Act of 1986, S. 2407. This legislation holds great promise for both consumers and producers. It encourages the production of generic animal health products, lowers the cost of producing our food supply, and provides innovative patent holders with fair and equitable relief for time lost during the Government product approval process.

Two years ago, when we enacted the Drug Price Competition and Patent Term Restoration Act of 1984, we hoped to reduce health care costs by encouraging competition in the human pharmaceutical industry and providing an incentive for pioneer pharmaceutical companies to continue their efforts in research and development. The experience with that act to date more than justifies our hopes. That act has already resulted in a number of important—and less expensive—generic drugs being made available; it has heightened competition and investment; and it has provided patent term restoration for several pioneer products. I expect that the Animal Drug Amendments and Patent Term Restoration Act will have the same effect in the animal health industry. As we are well aware, the farmers and ranchers who produce our food have been experiencing hard economic times. By helping to stimulate competition in the animal health industry, the bill I introduce today should bring down their costs. It would do so at no cost to the U.S. Treasury and with evenhanded treatment of pioneer pharmaceutical companies who have taken great risks in improving the technology in this area.

I believe that this bill is needed at least as much as the bill we passed 2 years ago. In the sphere of human pharmaceuticals, legal constraints limited the FDA generally from being able to approve generic equivalents of drugs whose patents had expired unless very expensive and unnecessary repeat testing was performed. An identical if not greater problem exists for animal drugs. My bill will remedy that inequity without compromising the interests of the innovative sector.

We worked long and hard 2 years ago to produce a human generic drug law that provided great benefits to consumers, but also was fair to both sides—generic manufacturers and research-based companies. This bill simply extends to animal drugs and veterinary biological products the same balance that was struck in 1984. Pioneer manufacturers will enjoy patent restoration for time lost during product review, generic manufacturers will be able to seek FDA approval for drugs, they cannot now readily and inexpensively get approved, and farmers, ranchers, and the public will enjoy the benefits of enhanced competition and lower prices. Even pet owners will benefit from lower-priced veterinary products.

I urge my colleagues to join me in supporting this important legislation, and ask that the text of the bill be reprinted in the RECORD at this point.

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

S. 2407

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 "Animal Drug Amendments and Patent Term Restoration Act of 1986".

TITLE I— ANIMAL DRUG AMENDMENTS

SEC. 101. Section 512(b) of such Act (21 U.S.C. 360(b)) is amended by inserting "(1)" after "(b)", by designating clauses (1) through (8) as (A) through (H), respectively, and by adding at the end the following:

"The applicant shall also file with the application the patent number and the expiration date of any patent which claims the drug for which the applicant submitted the application or which claims a composition containing such drug, or which claims a method of using such drug, and with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug. If an application is submitted under this subsection for a drug and a patent which claims such drug, or a composition containing such drug, or a method of using such drug is issued after the date of submission but before approval of the application, the applicant shall amend the application to include the information required by the preceding sentence.

"(2) Any person may file with the Secretary an abbreviated application for the approval of a new animal drug. For purposes of this section, an "abbreviated application" means any application submitted under this subsection that does not contain the information required by subparagraphs (A), (G) and (H) of paragraph (1), or that contains such information relied on by the applicant for the approval of the application but such information was not information derived either from investigations, studies or tests conducted by or for the applicant or for which the applicant had obtained a right or reference or use (disclosed to the Secretary) from the person by or for whom the investigations, studies or tests were conducted.

"(3)(A) An abbreviated application for a new animal drug shall contain—

"(i) information to show that the conditions of use (including any withdrawal period, residue, tolerance, or similar limitation whether in labeling or published pursuant to section 512(i)) prescribed, recommended, or suggested in the labeling proposed for the new animal drug have been previously approved for a drug whose approval has been published pursuant to section 512(i) (hereafter in this subsection referred to as a "listed animal drug');

"(ii)(I) if the listed animal drug referred to in clause (i) has only one active ingredient, information to show that the active ingredient of the new animal drug is the same as that of the listed animal drug;

"(II) if the listed animal drug referred to in clause (i) has more than one active ingredient, or is permitted to be used with another animal drug or drugs in animal feed, information to show that the active ingredients of the new animal drug, or the permitted uses with other drugs, are the same as those of the listed animal drug, or

"(III) if the listed animal drug referred to in clause (i) has more than one active ingredient or permitted uses with other animal drugs, and if one of the active ingredients of the new animal drug, or proposed uses with other animal drugs, is different and the application is filed pursuant to the approval of a petition filed under subparagraph (C), information to show that the other active ingredients of the new animal drug are the same as the active ingredients of the listed animal drug, information to show that either the different active ingredient is an active ingredient of another approved animal drug or of an animal drug which does not meet the requirements of section 201(w), or the proposed new uses are with other listed animal drugs or drugs that do not meet the requirements of section 201(w), and such other information respecting the different active ingredient or combi-

nation with respect to which the petition was filed as the Secretary may require;

"(iii) information to show that the route of administration, the dosage form, and the strength of the new animal drug are the same as those of the listed animal drug referred to in clause (i) or, if the route of administration, the dosage form, or the strength of the new animal drug is different and the application is filed pursuant to the approval of a petition filed under subparagraph (C), such information respecting the route of administration, dosage form, or strength with respect to which the petition was filed as the Secretary may require;

"(iv) information to show that the new animal drug is bioequivalent to the listed animal drug referred to in clause (i) with respect to the conditions of use in one major species of animal as defined in 21 C.F.R. § 514.1(d)(a)(ii) in which that animal drug is approved and the new animal drug is proposed to be used, and meets any criteria established by the Secretary with respect to the approved animal drug referred to in clause (i) concerning the use of active ingredients that are part of an uncharacterized mixture, except that if the application is filed pursuant to the approval of a petition filed under subparagraph (C), information to show that the active ingredients of the new animal drug are of the same pharmacological or therapeutic class as those of the approved animal drug referred to in clause (i) and the new animal drug can be expected to have the same therapeutic effect as the approved animal drug when used in accordance with the labeling referred to in clause (i); A new animal drug shall be considered to be bioequivalent to a listed animal drug if—

"(I) the rate and extent of absorption of the drug do not show a significant difference from the rate and extent of absorption of the listed animal drug when administered at the same molar dose of the active ingredient under similar experimental conditions in either a single dose or multiple doses;

"(II) the extent of absorption of the new animal drug does not show a significant difference from the extent of absorption of the listed animal drug when administered at the same molar dose of the active ingredient under similar experimental conditions in either a single dose of multiple doses and the difference from the listed animal drug in the rate of absorption of the drug is intentional, is reflected in its proposed labeling, is not essential to the attainment of effective drug concentrations in use, and is considered scientifically insignificant for the drug in attaining the intended purposes of its use and preserving human food safety;" or "(III) where the Secretary finds that the measurement of the rate and extent of absorption or excretion of the new animal drug in biological or excretion of the new animal drug in biological fluids is inappropriate or impractical, an appropriate acute pharmacological effects test, or other test, of the new animal drug and the listed animal drug in the target species, or in the appropriate animal model, does not show a significant difference between the new animal drug and the listed animal drug when administered at the same molar dose under similar experimental conditions; in the event that bioequivalency data do not establish a withdrawal period, the Secretary can require a tissue residue study to establish the withdrawal period, and the assay methodology used is such a study need be no more rigorous than the methodology for the listed drug.

"(v) information to show that the labeling proposed for the new animal drug is the same as the labeling approved for the listed animal drug referred to in clause (i) except for changes required because of differences approved under a petition filed under subparagraph (C) or because the new animal drug and the listed animal drug are produced or distributed by different persons;

"(vi) the items specified in clauses (B) through (F) of subsection (b)(1); and

"(vii) a certification, that in the opinion of the applicant and to the best of his knowledge, with respect to each patent which claims the listed animal drug referred to in clause (i), or which claims a composition containing such listed animal drug, or which claims a use for such approved animal drug, for which the applicant is seeking approval under this subsection and for which information is required to be filed under subsection (b)(1) or (c)(2)—

"(I) that such patent information has not been filed,

"(II) that such patent has expired,

"(III) of the date on which such patent will expire, or

"(IV) that such patent is invalid or will not be infringed by the manufacture, use, or sale of the new animal drug for which the application is submitted.

The Secretary may not require that an abbreviated application contain information in addition to that required by clauses (i) through (vii).

"(B)(i) An applicant who makes a certification described in subparagraph (A)(vii)(IV) of this subsection shall include in the application a statement that the applicant will, not later than ten days after submission of the application, give the notice required by clause (ii) of this subsection to—

"(I) each owner of the patent which is the subject of the certification or the representative of such owner (*e.g.*, licensee) designated to receive such notice, and

"(II) the holder of the approved application under subsection (b)(1) for the drug which is claimed by the patent, or the composition containing such drug claimed by the patent, or the use of which is claimed by the patent, or the representative of such holder designated to receive such notice.

"(ii) The notice referred to in clause (i) of this subsection shall state that an application, which contains data from bioequivalence studies, has been submitted under this subsection for the drug with respect to which the certification is made to obtain approval to engage in the commercial manufacture, use, or sale of such drug before the expiration of the patent referred to in the certification. Such notice shall include a detailed statement of the factual and legal basis of the applicant's opinion that the patent is invalid or will not be infringed.

"(iii) If an application is amended to include a certification described in subparagraph (A)(vii)(IV), the notice required by clause (ii) shall be given when the amended application is submitted.

"(C)(i) If a person wants to submit an abbreviated application for a new animal drug which has a different active ingredient or whose route of administration, dosage form, strength, use with other animal drugs, tolerance, withdrawal period, or other use restriction differ from that of an approved animal drug referred to in clause (i), such person shall submit a petition to the Secretary seeking permission to file such an application. The Secretary shall approve or disapprove a petition submitted under this subparagraph within ninety days of the date the petition is submitted. The Secretary shall approve such a petition unless the Secretary finds—

"(I) that field investigations must be conducted to show the safety and effectiveness of the animal drug or of any of its active ingredients, the route of administration, the dosage form, strength, the use with other animal drugs, the tolerance, the withdrawal period, or any other use restrictions which differ from the approved animal drug; or

"(II) that any animal drug with a different active ingredient (including an active ingredient that is part of an uncharacterized mixture) or use with another animal drug may not be adequately evaluated for approval as safe and effective on the basis of the information required to be submitted in an abbreviated application."

AMENDMENTS TO SECTION 512(C)

SEC. 102. (a) Section 512(c) of such Act (21 U.S.C. 360b(c)) is amended by inserting "(1)" after "(c)", by redesignating clauses (1) and (2) as clauses (A) and (B), respectively, and by adding at the end the following:

"(2) If the patent information described in subsection (b)(1) could not be filed with the submission of an application under subsection (b)(1) because the application was filed before the patent information was required under subsection (b)(1) or a patent was issued after the application was filed under such subsection, the holder of an approved application shall file with the Secretary, prior to the approval of the application, the patent number and the expiration date of any patent which claims the drug for which the application was submitted, or which claims a composition containing such drug, or which claims a method of using such drug, and with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug. If the holder of an approved application could not file patent information under subsection (b)(1) because no patent had been issued when an application was approved, the holder shall file such information under this subsection no later than thirty days after the date the patent involved is issued."

(b) Section 512(c)(1)(A) of such Act, as redesignated, is amended by inserting "the applicable paragraph of" immediately following "for denying approval specified in."

(c) The following paragraph is added at the end of subsection (c):

"(3) An order issued pursuant to paragraph (1)(A) of this subsection (c), approving an application submitted under subsection (b)(2), shall be made effective on the last applicable date determined under the following:

"(A) If the applicant only made a certification described in subclause (I) or (II) of subsection (b)(3)(A)(vii) or in both such subclauses, the approval shall be made effective immediately.

"(B) If the applicant made a certification described in subclause (III) of subsection (b)(3)(A)(vii), the approval shall be made effective on the date certified under subclause (III).

"(C) If the applicant made a certification described in subclause (IV) of subsection (b)(3)(A)(vii), the approval shall be made effective immediately unless an action is brought for infringement of a patent which is the subject of the certification before the expiration of forty-five days from the date the notice provided under subsection (b)(3)(B)(i) is received. If such an action is brought before the expiration of such days,

the approval shall be made effective upon the expiration of the thirty-month period beginning on the date of the receipt of the notice provided under subsection (b)(3)(B)(i) or such shorter or longer period as the court may order because either party to the action failed to reasonably cooperate in expediting the action, except that

"(i) if before the expiration of such period the court decides that such patent is invalid or not infringed, the approval shall be made effective on the date of the court decision, or

"(ii) if before the expiration of such period the court decides that such patent has been infringed, the approval shall be made effective on such date as the court orders under section 271(e)(4)(A) of title 35, United States Code.

"In such an action, each of the parties shall reasonably cooperate in expediting the action. Until the expiration of forty-five days from the date the notice made under subsection (b)(3)(B)(i) is received, no action may be brought under section 2201 of title 28, United States Code, for a declaratory judgment with respect to the patent. Any action brought under section 2201 shall be brought in the judicial district where the defendant has its principal place of business or a regular and established place of business.

"(D) If the application contains a certification described in subclause (IV) of subsection (b)(3)(A)(vii) and is for an animal drug for which a previous application has been submitted under this section containing such a certification, the application shall be made effective not earlier than one hundred and eighty days after—

"(i) the date the Secretary receives notice from the applicant under the previous application of the first commercial marketing of the animal drug under the previous application, or

"(ii) the date of a decision of a court in an action described in subparagraph (C) holding the patent which is the subject of the certification to be invalid or not infringed, whichever is earlier.

"(E)(i) If an application submitted under subsection (b)(1) for an animal drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under subsection (b)(1), is approved after the date of the enactment of this paragraph, no application may be submitted under subsection (b)(2) which refers to the drug for which the subsection (b)(1) application was submitted before the expiration of five years from the date of the approval of the application under subsection (b)(i), except that such an application may be submitted under subsection (b)(2) after the expiration of four years from the date of the approval of the subsection (b)(i) application if it contains a certification of patent invalidity or noninfringement described in subclause (IV) of subsection (b)(3)(A)(vii). The approval of such an application shall be made effective in accordance with subparagraph (C) of this subsection (c)(3) except that, if an action for patent infringement is commenced during the one-year period beginning forty-eight months after the date of the approval of the subsection (b)(1) application, the thirty-month period referred to in subparagraph (C) shall be extended by such amount of time (if any) which is required for seven and one-half years to have elapsed from the date of approval of the subsection (b)(1) application.

"(ii) If an application (which includes any supplement to such application) submitted under subsection (b)(1) for an animal drug, which includes an active ingredient (including any ester or salt of the active ingredient) for use in the same or a different species or class of animals, i.e., nonfood producing, ruminant, swine, or poultry, as has been approved in another application submitted under subsection (b)(1), is approved after the date of enactment of this paragraph and if the application contains reports of new investigations (other than bioequivalency studies) essential to the new approval of the application and conducted or sponsored by the applicant, the Secretary may not make the approval of an application (including any supplement to such application) submitted under subsection (b)(2) for the new conditions of approval of such drug in the subsection (b)(1) application effective before the expiration of three years from the date of the approval of the application under subsection (b)(1) for such drug.

"(iii) If an application (other than an abbreviated new animal drug application) submitted under subsection (b)(1), for a new animal drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under subsection (b)(1), was approved during the period beginning on the date which is two years before the enactment date of this subsection and ending on the enactment date of this subection, the Secretary may not make the approval of an application which refers to the animal drug for which the subsection (b)(2) application was submitted effective before the expiration of five years from the date of approval of the application under subsection (b)(1).

AMENDMENTS TO SECTION 512(d)

SEC. 103. (a) Section 512(d)(1) of such Act (21 U.S.C. 360b(d)(1)) is amended by inserting after "finds" the words "with respect to an application filed under subsection (b)(1)"; by inserting "(1)" after "(b)" in subparagraph (A); and by redesignating subparagraphs (G) and (H) as subparagraphs (H) and (I) and inserting after subparagraph (F) the following: "(G) the application failed to contain the patent information prescribed by subsection (b)(1);".

(b) The last sentence of subsection 512(d)(1) of such Act is amended by striking "(H)" and inserting in lieu thereof "(I)".

(c) The following paragraph is added at the end of subsection (d):

"(4) If the Secretary finds with respect to an application filed under subsection (b)(2), after due notice to the applicant in accordance with subsection (c) and giving him an opportunity for a hearing, in accordance with said subsection, that—

"(A) the methods used in, or the facilities and controls used for, the manufacture, processing, and packing of the drug are inadequate to assure and preserve its identity, strength, quality, and purity;

"(B) information submitted with the application is insufficient to show that each of the proposed conditions of use has been previously approved for the listed animal drug referred to in the application;

"(C)(i) if the listed animal drug has only one active ingredient, information submitted with the application is insufficient to show that the active ingredient is the same as that of the listed drug;

"(ii) if the listed animal drug has more than one active ingredient, or permitted uses with other animal drugs, information submitted with the application is insufficient to show that the active ingredients or permitted uses with other animal drugs are the same as those for the listed animal drug, or

"(iii) if the listed animal drug has more than one active ingredient or permitted use with other approved animal drugs in animal feed and if the application is for a new animal drug which has an active ingredient or proposed permitted use different from the listed animal drug, information submitted with the application is insufficient to show—

"(I) that the other active ingredients or permitted uses are the same as for the listed animal drug, or

"(II) that the different active ingredient or proposed use is an active ingredient of, or a proposed use with, a listed animal drug or an animal drug which does not meet the requirements of section 201(w),

or no petition to file an application for the drug with the different ingredient or use was approved under subsection (b)(3)(C);

"(D)(i) if the application is for a drug whose route of administration, dosage form, or strength of the drug is the same as the route of administration, dosage form, or strength of the approved animal drug referred to in the application, information submitted in the application is insufficient to show that the route of administration, dosage form, or strength is the same as that of the approved animal drug, or

"(ii) if the application is for a drug whose route of administration, dosage form, or strength of the drug is different from that of the approved animal drug referred to in the application, no petition to file an application for the drug with the different route of administration, dosage form, or strength was approved under subsection (b)(3)(C);

"(E)(i) if the application is for a drug for which the methods of analysis for residues of such drug or substances formed in or on food from such drug, tolerances, withdrawal periods, or other use restrictions are the same as the methods of analysis, tolerances, withdrawal times and other use restrictions of the listed animal drug referred to in the application, information submitted in the application is insufficient to show that the drug is bioequivalent to the approved animal drug; or

"(ii) if the application is for a drug for which the methods of analysis, tolerances, withdrawal periods or other use restrictions are different from those of the listed animal drug referred to in the application, no petition to file an application for a drug with a different method of analysis, tolerance, withdrawal period or other use restriction was approved under subsection (b)(3)(C);

"(F) if the application was filed pursuant to the approval of a petition under subsection (b)(3)(C), the application did not contain the information required by the Secretary respecting the active ingredient, route of administration, dosage form, strength, method of analysis, tolerance, withdrawal period or other use restriction which is not the same;

"(G) information submitted in the application is insufficient to show that the (i) drug is bioequivalent to the listed animal drug referred to in the application or meets any criteria established by the Secretary for the listed drug concerning active ingredients that are part of an uncharacterized mixture, (ii) the withdrawal period and tolerance are not the same as the listed animal drug referred to in the application; or, (iii) if the application was filed pursuant to a petition approved under subsection (b)(3)(C), information submitted in the application is insuf-

ficient to show that the active ingredients of the new animal drug are of the same pharmacological or therapeutic class as those of the approved animal drug referred to in subsection (b)(3)(A)(i) and that the new animal drug can be expected to have the same therapeutic effect as the listed animal drug when administered to animals for a condition of use referred to in such subsection;

"(H) information submitted in the application is insufficent to show that the labeling proposed for the drug is the same as the labeling approved for the listed animal drug referred to in the application except for changes required because of differences approved under a petition filed under subsection (b)(3)(C) or because the new animal drug and the listed animal drug are produced or distributed by different persons;

"(I) information submitted in the application or any other information available to the Secretary shows that (i) the inactive ingredients of the new animal drug are unsafe for use under the conditions prescribed, recommended, or suggested in the labeling proposed for the drug, or (ii) the composition of the new animal drug is unsafe under such conditions because of the type or quantity of inactive ingredients included or the manner in which the inactive ingredients are included or the failure of components of an uncharacterized mixture to meet the critieria established by the Secretary for the approved animal drug;

"(J) the approval under subsection (c) of the listed animal drug referred to in the application under subsection (b)(2) has been withdrawn or suspended for grounds described in subparagraphs (A) through (C) of subsection (e)(1); the Secretary has published a notice of opportunity for hearing to withdraw approval of the listed animal drug for grounds described in subparagraphs (A) through (C) of subsection (e)(1); the approval under this section of the listed animal drug referred to in the application under subsection (b)(2) has been withdrawn or suspended under subsection (e)(1) or (3); or the Secretary has determined that the listed animal drug has been withdrawn from sale for safety or effectiveness reasons;

"(K) the application does not meet any other requirement of subsection (b)(3)(A);

"(L) based on a fair evaluation of all material facts, the labeling of the new animal drug is false or misleading in any particular; or

"(M) the application contains an untrue statement of material fact;

he shall issue an order refusing to approve the application. If, after such notice and opportunity for a hearing, the Secretary finds that subparagraphs (A) through (M) do not apply, he shall issue an order approving the application, which shall be made effective on the last applicable date determined under subsection (c)(3)."

AMENDMENTS TO SECTION 512(e)

SEC. 104. (a) Section 512(e) of such act (21 U.S.C. 360b(e)) is amended by redesignating paragraphs (2) and (3) as (4) and (6).

(b) Paragraph (1) of such section is amended (1) by inserting "(1)" after "(b)"; (2) by deleting "(H)" in subparagraph (B) and inserting in lieu thereof "(I)"; (3) by inserting "or" after the semicolon at the end of subparagraph (C); (4) by redesignating subparagraphs (D) and (E) as (A) and (B); and (5) by inserting the following after subparagraph (C):

"(D) the patent information prescribed by subsection (c)(2) was not filed within thirty days after the receipt of written notice from the Secretary specifying the failure to file such information.

"(2) The Secretary shall also, after due notice and opportunity for hearing to the applicant, issue an order withdrawing the approval of an application with respect to any new animal drug under this section if the Secretary finds—

(c) The sentence following paragraph (2)(B) of such section (as redesignated) is designated as paragraph (3), and the words "such application" are deleted and the words "any application approved under subsection (c)" are inserted in lieu thereof in that sentence.

(d) The following paragraph is added following paragraph (4) (as redesignated):

"(5) If an animal drug approved under this section refers in its approved application to a new animal drug the approval of which was withdrawn or suspended for grounds described in subparagraphs (A) through (C) of subsection (e)(1) or which, as determined by the Secretary, has been withdrawn from sale for safety or effectiveness reasons, the approval of the animal drug under this section shall be withdrawn or suspended—

"(A) for the same period as the withdrawal or suspension under subsection (e)(1), or

"(B) if the listed animal drug has been withdrawn from sale, for the period of withdrawal from sale or, if earlier, the period ending on the date the Secretary determines that the withdrawal from sale is not for safety or effectiveness reasons."

AMENDMENTS TO SECTION 512(i)

SEC. 105. Section 512(i) of such Act (21 U.S.C. 360b(i)) is amended (1) by inserting "(1)" after "(b)"; (2) by deleting the words "by notice, which upon publication shall be effective as a regulation,"; (3) by inserting the words", established name of the approved new animal drug and any proprietary name, the patent information submitted under subsections (b)(1) and (c)(2), and any period during which abbreviated applications may not made effective pursuant to subsection (c)(3)(E)," after applicant"; and (4) by deleting the second sentence, and inserting in lieu thereof: "Upon withdrawal of approval of any new animal drug application filed pursuant to subsection (b)(1), or upon its suspension, the Secretary shall forthwith publish in the Federal Register the name and address of the applicant and the established and any proprietary name of the drug, and a brief statement of the statutory basis for the action (or that such withdrawal is at the request of the applicant)."

ADDITIONAL AMENDMENTS

SEC. 106. Section 512 of such Act (21 U.S.C. 360b) is further amended by inserting after subsection (n) the following:

"(o) For purposes of this section, the term 'patent' means a patent issued by the Patent and Trademark Office of the Department of Commerce."

SEC. 107. (a) The Secretary of Health and Human Services shall promulgate, in accordance with the notice and comment requirements of section 553 of title 5, United States Code, such regulations as may be necessary for the administration of section 512 of the Federal Food, Drug, and Cosmetic Act, as amended by sections 101 through 107 of this Act, within one year of the date of enactment of this Act.

(b) During the period beginning sixty days after the date of the enactment of this Act and ending on the date regulations promulgated under subsection (a) take effect, abbreviated new animal drug applications may be submitted in accordance with the provisions of section 314.2 of title 21 of the Code of Federal Regulations and shall be considered as suitable for any drug which has been approved for safety and effectiveness under section 512(c) of the Federal Food, Drug, and Cosmetic Act before the date of the enactment of this Act. If any such provision of section 314.2 is inconsistent with the requirements of section 512 of the Federal Food, Drug, and Cosmetic Act as amended or added by this Act, the Secretary shall consider the application under the applicable requirements of section 512 as amended or added.

SEC. 108. Section 2201(b) of title 28, United States Code, is amended by deleting "section 505" and inserting in lieu thereof "sections 505 and 512".

TITLE II—PATENT EXTENSION

SEC. 201. Section 156 of title 35 of the United States Code is amended as follows:

(a) subsection (c)(2) is amended by deleting the words "and (3)(B)(i)" and inserting in lieu thereof "(3)(B)(i), (4)(B)(i), and (5)(B)(i)."

(b) subsection (d)(1)(C) is amended by inserting after the words "the Secretary of Health and Human Services" the following words "or the Secretary of Agriculture, as appropriate,".

(c) subsection (d)(2)(A) is amended (1) by deleting the words "human drug" and inserting in lieu thereof the words "human or animal drug," (2) by inserting after the words "Federal Food, Drug, and Cosmetic Act," the following words "or the Secretary of Agriculture if the patent claims a veterinary biological product or a method of using or manufacturing such a product and if the product is subject to the Virus-Serum-Toxin Act,".

(d) subsection (d)(2)(B)(i) is amended by deleting the first word of the last sentence and by inserting in lieu thereof the following: "For a product, device or additive subject to the Federal Food, Drug and Cosmetic Act, the" and by adding the following sentence at the end of the subparagraph: "For a product subject to the Virus-Serum-Toxin Act, the Secretary of Agriculture may not delegate the authority to make the determination prescribed by this subparagraph to an office below the Office of the Assistant Secretary for Marketing and Inspection Services."

SEC. 202. Section 156 of title 35 of the United States code is amended as follows:

(a) subsection (f)(1)(A) is amended by deleting the word "human" therefrom.

(b) subsection (f)(1) is amended by adding a new subparagraph "(c)" as follows: "(C) A veterinary biological subject to regulation under the Virus-Serum-Toxin Act."

(c) subsection (f)(2) is amended by deleting the word "human" from the phrase "human drug product" and by inserting following the words "new drug," the words "new animal drug,".

(d) subsection (g) is amended by redesignating subparagraph (4) as subparagraph (6) and by inserting between subparagraph (3) and subparagraph (6), as renumbered, new subparagraphs (4) and (5), as follows:

"(4)(A) In the case of a product which is a new animal drug, the term means the period described in subparagraph (B) to which the limitation described in paragraph (6) applies.

"(B) The regulatory review period for a new animal drug product is the sum of—

"(i) the period beginning on the date an exemption under subsection (j) of section

512 became effective for the approved new animal drug product and ending on the date an application was initially submitted for such animal drug product under section 512, and

"(ii) the period beginning on the date the application was initially submitted for the approved animal drug product under subsection (b) of section 512 and ending on the date after enactment of this section such application was approved under such section."

"(5)(A) In the case of a product which is a veterinary biological, the term means the period described in subparagraph (B) to which the limitation described in paragraph (6) applies."

"(B) The regulatory period for a veterinary biological product is the sum of—

"(i) the period beginning on the date the authority to prepare an experimental biological product under the Virus-Serum Toxin Act became effective and ending on the date an application for a license was submitted under the Virus-Serum-Toxin Act, and

"(ii) the period beginning on the date an application for a license was submitted for approval under the Virus-Serum-Toxin Act and ending on the date after enactment of this section such license was issued."

SEC. 203. Section 271 of title 35, United States Code, is amended as follows:

(a) subsection (e)(1) is amended by deleting in its entirety the language in parentheses and by deleting the period at the end thereof and inserting in lieu thereof the following: "or veterinary biological products."

(b) subsection (e)(2) is amended by deleting the words "under section 505(j) of the Federal Food, Drug, and Cosmetic Act or described in section 505(b)(2) of such Act for a drug" and inserting in their place the words "under a Federal law which regulates the manufacture, use, or sale of drugs or veterinary biological products" and by inserting between the words "sale of a drug" and "claimed in a patent" the words "or veterinary biological products."

By Mr. CRANSTON (for Mr. BAUCUS, for himself, Mr. CRANSTON, and Mr. BINGAMAN):

S. 2408. A bill entitled the "Antidumping Act of 1986"; to the Committee on Finance.

(The remarks of Mr. CRANSTON and Mr. BAUCUS and the text of the legislation appear earlier in today's RECORD.)

By Mr. HATCH (for himself and Mr. RUDMAN):

S. 2409. A bill to amend the Legal Services Corporation Act to authorize appropriations for 3 fiscal years, to strengthen the provisions of that act, and for other purposes; to the Committee on the Labor and Human Resources.

LEGAL SERVICES CORPORATION AMENDMENTS

Mr. HATCH. Mr. President, today Senator RUDMAN and I are introducing a bill which will reauthorize the Legal Services Corporation and provide the statutory basis needed to resolve the troublesome issues which over the last 5 years have so beleaguered the operation of this important Federal program.

It is no secret to this body that the Federal provision of legal aid has not been without controversy. As I have remarked before, both proponents and opponents of the Corporation have been relentless in their attack of one another's opinions during the 1980's. The debate has been noteworthy for its passion if not its product, but too often we did not have before us the necessary factual information needed to discuss this issue accurately.

Since 1983, I have conducted a series of oversight hearings coupled with several GAO investigations on the Corporation. The testimony and the GAO inquiries revealed that while several local programs, such as Utah Legal Services, Inc., have provided a needed, and valuable service to ensure that the poor have access to our legal system:

Millions of dollars in cash and staff-time were spent on the organization of a grassroots political campaign to protect the Corporation and to fight the Reagan administration;

Grantee staff have been able to use Federal funds to pay for thousands of dollars worth of personal expenses;

Millions of dollars were diverted from legal services into real estate purchases and office renovations; and

Some local programs have accumulated huge cash balances at a time when other programs were unable to meet client needs.

Taken in its totality, the testimony revealed that the Federal Legal Aid Program has been and can be abused; that instead of being free of political pressures, the Corporation has been used to finance and implement partisan political objectives; and, that current law is an inadequate deterrent against those who wish to avoid congressional restrictions.

The bill we are introducing today addresses each of these concerns and others without undermining the integrity of the program or the purpose of the Legal Services Corporation Act, as amended. The bill draws heavily from previous congressional efforts to address the problems facing the Corporation. For example, the provisions concerning lobbying by the Corporation and its recipients, training programs authorized by the Corporation, the representation of aliens, the composition of local governing bodies, and the treatment of class actions have been approved by Congress in 1983, 1984, and 1985, as amendments to appropriations bills governing the Corporation. Similarly, language in the bill addressing defunding and refunding of program grantees was taken from the last Legal Services Corporation authorization bill to pass the House of Representatives, H.R. 3480. The bill also contains several new sections, each of which stems from the findings of the committee's inquiry.

Over a decade ago, Congress with great fanfare and acclaim pledged to provide legal assistance free of political pressure. The bill we are introducing today will enable Congress to make good on that promise not just in a few States but throughout the country. The following is a section-by-section explanation of the bill.

Section 1 of the bill establishes the name of the bill as "Legal Services Corporation Amendments of 1986."

Section 2 amends the definition of the term "recipient" in order to create a uniform term for all those receiving financial assistance from the Legal Services Corporation Act.

Section 3 of the bill amends the acts by adding two new subsections. The first subsection prohibits any recipient from hiring an officer or employee of the Corporation, if that officer or employee was personally and substantially involved in any matter dealing with that recipient during employment with the Corporation. In the past, Corporation officials have given large sums of money to organizations which subsequently hired them as employees or officers.

The second subsection defines the Legal Services Corporation and each recipient of funds as an agency of the United States for purposes of creating criminal liability for violations of sections of title 18 of the United States Code dealing with fraud, embezzlement, and conspiracy.

Section 4 of the bill grants the Corporation authority to issue regulations to provide for enforcement of the act, including instances where recipients misuse funds or refuse to take actions against employees who have committed serious violations. Specific enforcement measures include suspension, reduction or termination of financial assistance and the suspension or termination of any employee of the Corporation or a recipient. No suspension or termination of funds is allowed without prior reasonable notice and opportunity for a fair hearing. In addition, the clients of recipients affected by these measures are not to be adversely affected and the Corporation is to insure that their representation is completed in an orderly fashion. Recent problems with grantees, such as the National Clients Council, have highlighted the need for these provisions.

This section would eliminate the current problem of presumptive refunding and grant the Corporation power to move quickly in situations where it determines that a different recipient would provide more economical or effective legal services. The provisions will also encourage recipients to improve service and cooperate with the Corporation in monitoring and evaluation. Quality service is a better basis for awarding a legal aid grant than habit or tradition.

The section also provides that any application for refunding may not be denied without reasonable notice and

opportunity to show cause why such action should not be taken. As was mentioned earlier, this language on defunding and refunding is the same language found in H.R. 3480, the authorization bill passed by the House during the 97th Congress.

Section 5 of the bill amends the act by adding a new subparagraph which prohibits the bringing of class actions against Federal, State or local governments unless first, the project director of the recipient approves the action in accordance with policies established by the governing body of the recipient; second, the relief sought is for the primary benefit of individuals eligible for legal assistance under the act; and, third, prior to filing an action, the project director of the recipient determines that the Government is not likely to change the policy or practice in question, the policy or practice will continue to adversely affect eligible clients, the recipient has given notice of its intention to seek class relief, and the responsible efforts to resolve the matter without litigation have not been successful or would be adverse to the clients. This section also provides that the Corporation's board may supercede these requirements by regulations. This language has been adopted by Congress in the last three appropriations bills; Public Law 98-166, Public Law 98-411, and Public Law 99-180.

Section 6 of the bill prohibits the use of any Corporation funds, personnel or equipment in attempting to affect legislative redistricting or reapportionment at any level of government, as has occurred in the past.

Section 7 of the bill prohibits officers and employees of the Corporation and recipients from intentional indentification of the Corporation or its recipients with any political activity associated with a political party or association, or the campaign of any candidate for public or party office.

Section 8 specifies when a grantee is to pay costs and fees of filing a legal action or accept attorneys fees awarded by the courts. Currently, if a court finds a suit was brought as a form of harassment or was a malicious abuse of legal process the costs and fees are to be paid by the Corporation or the recipient that commenced the action. Under the bill the board of the Corporation would also be empowered to issue regulations dealing with the distribution of attorney's fees received by a recipient when such fees are awarded by the court in an action in which the recipient has participated. The bill provides that the fees will be transferred to the Corporation for distribution among its various grantees, with the primary consideration being made to the State from which fees were derived. There are three exception to this guideline. The recipient is not required to transfer the fees received as a result of a court mandated appointment, the recipient may retain reasonable costs customarily allowed in litigation against an unsuccessful party, and the recipient may retain the actual cost of bringing the action, including the proportion of the compensation of each attorney involved in the action. These regulations will ensure that individual recipients are not collecting twice for the same legal representation.

Section 9 of the bill contains prohibitions against using Corporation funds for lobbying. The section would prevent the use of Federal legal aid funds to be used to influence the outcome of legislation, or to influence the decision of any Member of Congress or other elected government official, unless a client's legal rights are involved and the matter is properly approved. This section contains language identical to that adopted by Congress in appropriation bills Public Law 98-166, Public Law 98-411, and Public Law 99-180.

Section 10 of the bill requires a recipient to devote a substantial amount of its funds to the involvement of private attorneys in the delivery of legal services to eligible clients. The section is necessary to induce compliance with the Corporation's regulations which already require 12½ percent of a recipient's annual field award to be used in private attorney involvement. The section does permit, however, a waiver of the requirement in instances where application would create a substantial burden contrary to the purposes of the act.

Section 11 amends the act to prohibit the use of funds for the dissemination of information advocating particular political activities, labor or anti-labor activities, boycotts, picketing, strikes, and demonstrations. The clause preserves the right of recipients to use the funds to train attorneys and paralegal personnel to provide adequate legal assistance to eligible clients, to advise client's as to the nature of the legislative process or to inform eligible clients of their rights under statute, order or regulation. The language is identical to that used in the last three appropriations bills, Public Law 98-166, Public Law 98-411, and Public Law 99-180.

Section 12 of the bill addresses the provision of legal assistance to aliens. The section requires that an alien be properly admitted as a resident before access to Corporation funds is allowed. Again, the language of this section is identical to that adopted by Congress in the last three appropriations bills, Public Law 98-166, Public Law 98-411, and Public Law 99-180.

Section 13 provides that Corporation funds are not to be used to purchase real estate unless such purchase is approved by a two-thirds vote of the board of the Corporation.

Section 14 of the bill amends the act with regard to the governing bodies of eligible recipients. This section adds the requirement that a majority of the governing body be appointed to terms of office by the governing bodies of the State, county, or municipal bar associations which represent a majority of the attorneys practicing law in the locality in which the recipient is to provide legal assistance. Attorneys on the governing body are not to receive compensation from any recipient. The 60-percent attorney and appointment requirements may be waived by the Corporation if necessary. In addition, no individual on the governing body may serve for more than 5 years. This section also contains language from the earlier appropriation bills, Public Law 98-166, Public Law 98-411, and Public Law 99-180.

Section 15 of the bill adds two new subsections to the act. The first subsection prohibits the commingling of Corporation funds with the resources of any other organization furnishing legal assistance if the purpose or effect of the commingling is to circumvent any requirement or prohibition in the act. The second subsection requires that all grants, subgrants, contracts, or subcontracts directly related to the provision of legal assistance or research, made by any recipient shall first be approved by the Corporation. Such approval or disapproval is to be made within 60 days of notice to the Corporation of the recipient's intent to take such action. These new subsections are necessary to promote accountability for Corporation funds and ensure observance of the provisions of the Legal Services Corporation Act and its accompanying regulations. The findings of the GAO in a report dated August 22, 1985, were the impetus for this provision.

Section 16 of the bill adds two new subsections dealing with reporting and auditing. The first subsection requires annual summary reports from all recipients of Corporation funds detailing the activities of the recipient and its subgrantees. The Corporation must review these reports to ensure compliance with the act and then issue a report itself on the compliance of recipients. The second subsection empowers the Corporation to take disciplinary action or deny refunding for failure to comply with audit requests. Some recipients have repeatedly refused to cooperate with legitimate requests by the Corporation concerning the substance and cost of grant activities.

Section 17 appropriates funds for the Corporation for the fiscal year 1986 and the 2 succeeding years and adds a clause which makes expenditure of the funds subject to the act or other statutes respecting the expenditure of funds. This section also adds a

new subsection which makes all unexpended funds, held by recipients on the date of enactment of this bill, subject to the provisions of the Legal Services Corporation Amendments of 1985. This new subsection is included to require the expenditure of funds from previous appropriations before a grantee may use current funds.

Section 18 of the bill adds a new section to the act which permits the Corporation to bring an action in the U.S. district courts to compel specific performance of agreements between the Corporation and any recipient or to compel compliance by recipients with the provisions of the act and any rule, regulation or guideline promulgated under the act. This new section also provides for uninterrupted provision of legal assistance to any eligible client affected by a court order or judgment under this section unless the court determines that interruption is necessary, in which case the court is to attempt to make equitable arrangements for that eligible client. Under this section, all directors, officers, and employees of the Corporation; members of the board, officers, and employees of all recipients, grantees, contractees, subgrantees, subcontractees; and all other persons who receive or are responsible for financial assistance under the act are defined as Federal employees for purposes of title 18 of the United States Code. These provisions make it possible for the Corporation to enforce compliance and govern misconduct among those members and recipients who are unwilling to follow the provisions of the act and the rules, regulations, and guidelines.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2409

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 "Legal Services Corporation Amendments of 1986".

DEFINITIONS

SEC. 2. Section 1002 of the Legal Services Corporation Act (hereafter in this Act referred to as the "Act") is amended to read as follows:

"(6) 'recipient' means any grantee, contractor, or person or entity receiving financial assistance under this title; and".

CONFLICT OF INTEREST; CRIMINAL LIABILITY

SEC. 3. Section 1005 of the Act is amended by adding at the end thereof the following new subsections:

"(h) No officer or employee of the Corporation who participated personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, the furnishing of advice, investigation, or otherwise, in a matter involving the application for, or approval of funding to, a recipient may be employed by such recipient for a period not to exceed one year after termination of service as an officer or employee of the Corporation.

"(i) The Legal Services Corporation and each recipient of funds under this Act shall be considered an agency of the United States for the purposes of sections 286, 287, 371, 641, and 1001 of title 18 of the United States Code.".

DEFUNDING; REFUNDING

SEC. 4. (a)(1) Section 1006(b)(5) of the Act is amended by striking out the second sentence.

(2) Section 1006(b) of the Act is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6)(A) The Board, within 90 days after the date of the enactment of the Legal Services Corporation Amendments of 1985, shall issue regulations to provide for the enforcement of this title. The regulations shall include, among available remedies, provisions for the immediate suspension of financial assistance under this title, suspension of an employee of the Corporation or any employee of any recipient by such recipient, and the reduction or termination of such assistance or employment as deemed appropriate for the violation involved. Financial assistance under this title shall not be terminated or suspended unless the recipient has been afforded reasonable notice and an opportunity for a fair hearing pursuant to regulations promulgated by the Corporation. The Corporation shall insure that the eligible clients of a recipient, grantee, or contractor, whose financial assistance is terminated or suspended under this section, are not adversely affected by virtue of such termination or suspension.

"(B) An application for refunding shall not be denied unless the recipient has been afforded reasonable notice and an opportunity to show cause why such action should not be taken.

"(C) The Corporation shall provide for the orderly completion of representation of eligible clients of a recipient whose financial assistance is discontinued pursuant to subparagraph (A) or (B) of this paragraph.".

(b) Section 1011 of the Act is repealed.

(c)(1) Section 1006(b)(1)(A) of the Act is amended by striking out ", after a hearing in accordance with section 1011,".

(2) Section 1006(b)(2) of the Act is amended by striking out "in accordance with the types of procedures prescribed in the provisions of section 1011".

(3) Section 1007(a) of the Act is amended—

(A) by inserting "and" after clause (8),

(B) by striking out clause (9), and

(C) by redesignating clause (10) as clause (9).

(d) The amendments made by this section shall not affect any proceeding pending on the date of enactment of this Act under section 1011 of the Act.

CLASS ACTIONS

SEC. 5. Section 1006(d)(5) of the Act is amended by inserting "(A)" after the paragraph designation and by adding at the end thereof the following new subparagraph:

"(B) No class action shall be brought against the Federal Government or any State or local government unless—

"(i) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

"(ii) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

"(iii) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients;

except that the provisions of this subparagraph may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board who have been confirmed in accordance with section 1004(a) of this title.".

REDISTRICTING LITIGATION PROHIBITED

SEC. 6. Section 1006(d) of the Act is amended by adding the following:

"(7) The Corporation or any recipient shall not contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any plan, proposal, or litigation intended to or having the effect of altering any legislative redistricting or reapportionment at any level of government.".

POLITICAL ACTIVITIES BY OFFICERS AND EMPLOYEES OF THE CORPORATION AND RECIPIENTS

SEC. 7. Section 1006(e)(1) of the Act is amended to read as follows:

"(1) An officer or employee of the Corporation or of a recipient shall not at any time intentionally identify the Corporation or its recipients with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.".

ATTORNEY'S FEES

SEC. 8. (a) The last sentence of section 1006(f) of the Act is amended to read as follows: "Any such costs and fees shall be directly paid by the Corporation or the recipient that commenced the action, as the case may be.".

(b) Section 1006 of the Act is further amended by adding at the end thereof the following new subsection:

"(g)(1) The Board, within 90 days after the date of the enactment of the Legal Services Corporation Amendments of 1985, shall issue regulations to provide for the distribution of attorneys' fees received by a recipient, in accordance with the provisions of paragraph (2).

"(2) Such fees shall be transferred to the Corporation and the Corporation shall distribute such fees among its grantees for the direct delivery of legal assistance, with due consideration being given to the State from which the fees were derived, except that, subject to approval by the Corporation—

"(A) a recipient shall not be required to transfer fees or other compensation received as a result of a mandated court appointment;

"(B) a recipient may retain reasonable costs customarily allowed in litigation against an unsuccessful party; and

"(C) a recipient may retain the actual cost of bringing the action, including the proportion of the compensation of each attorney involved in the action.".

PROHIBITION ON LOBBYING

SEC. 9. (a) Section 1007(a)(5) of the Act is amended to read as follows:

"(5) insure that no funds made available by the Corporation may be used—

"(A) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency;

"(B) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

"(C) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

"(i) to favor or oppose any referendum, initiative, appointment, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body acting in a legislative capacity,

"(ii) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

"(iii) to influence the conduct of oversight proceedings of the recipient or the Corporation;

"(D) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this subclause shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter where the purpose of such communication is to bring the matter to the official's attention if—

"(i) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

"(ii) the project director of a recipient has determined prior to the undertaking of such communication, that—

"(I) the client, and each such client, is in need of relief which can be provided by the legislative body involved;

"(II) appropriate judicial and administrative relief have been exhausted; and

"(III) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client, except that such communication may not be the result of participation in a coordinated effort to provide such communications under this subclause; and

"(iii) the project director of a recipient maintains documentation of the expense and time spent under this subclause as part of the records of the recipient; or

"(iv) the project director of a recipient has approved the submission of a communication to a legislator requesting introduction of a private relief bill;

except that nothing in this clause (5) shall prohibit communications made in response to a request from a Federal, State, or local official;".

(b) Section 1007(a) of the Act is amended by redesignating clauses (6), (7), (8), (9), and (10), as clauses (7), (8), (9), (10), and (11), respectively, and by adding after clause (5) the following new clause:

"(6) insure that no funds made available by the Corporation may be used to pay for any administrative or related costs associated with any activity prohibited by subclause (A), (B), (C), or (D) of clause (5);".

PRIVATE BAR INVOLVEMENT

SEC. 10. Section 1007(a) of the Act is amended—

(1) in clause (10) (as redesignated by section 9(b)) by striking out "and" after the semicolon;

(2) in clause (11) (as redesignated by section 9(b)) by striking out the period and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new clause:

"(12) in each fiscal year, to the extent feasible and consistent with clause (3) of this subsection, make available substantial amounts of funds to provide the opportunity for legal assistance to be furnished to eligible clients by private attorneys, except that—

"(A) in determining amounts for use under this clause no special grant shall be included; and

"(B) the Corporation shall issue regulations to permit a complete or partial waiver of this clause whenever the application of the requirement of this clause would cause a substantial burden on the recipient contrary to the purposes of this Act, and to provide that compensation to private attorneys for furnishing such legal assistance shall not exceed reasonable fees, costs, and expenses.".

PROHIBITION ON TRAINING

SEC. 11. Section 1007(b)(6) of the Act is amended to read as follows:

"(6) to support or conduct training programs for the purpose of advocating particular political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this clause shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of the client's rights under statute, order, or regulation;".

ALIEN RESTRICTION

SEC. 12. (a) Section 1007(b) of the Act is amended—

(1) by striking out "or" at the end of clause (9);

(2) by striking out the period at the end of clause (10) and inserting in lieu thereof a semicolon and the word "or"; and

(3) by adding at the end thereof the following new clause:

"(11) to provide legal assistance for or on behalf of any alien unless the alien is a resident of the United States and is—

"(A) an alien lawfully admitted for permanent residence as an immigrant as defined by section 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act;

"(B) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

"(C) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act or who has been granted asylum by the Attorney General under such Act; or

"(D) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act.

No funds may be made available to provide legal assistance in determining whether or not an alien, within the terms of subclauses (A) through (D) of clause (11) of this subsection is lawfully within the United States.".

(b) Section 1007(h) of the Act is amended to read as follows:

"(h)(1) An alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of this section, to be an alien described in this paragraph.

"(2) Notwithstanding any other section of this Act, prospective clients may be required to produce proof of citizenship or of lawful resident-alien status required under subsection (b)(11).".

PURCHASE OF REAL ESTATE

SEC. 13. Section 1007(b) of the Act (as amended by section 10(a) of this Act) is amended—

(1) by striking out "or" at the end of clause (10),

(2) by striking out the period at the end of clause (11) and inserting in lieu thereof a semicolon and the word "or", and

(3) by adding at the end thereof the following new clause:

"(12) to permit recipients of such funds to purchase real estate unless the Board by a two-thirds vote of the members approves of such a purchase.".

ELIGIBLE RECIPIENTS

SEC. 14. Section 1007(c) of the Act is amended to read as follows:

"(c) In making grants or contracts for the provision of legal assistance, the Corporation shall insure that any recipient organized primarily for the purpose of providing legal assistance to eligible clients is governed by a body—

"(1) at least 60 percent of whose membership consists of attorneys who are admitted to practice in the State in which the legal assistance is to be provided; and

"(2) a majority of whose membership is appointed to terms of office on such governing body by the governing bodies of State, county, or municipal bar associations, the membership of which represents a majority of the attorneys practicing law in the locality in which the recipient is to provide legal assistance.

Any such attorney, while serving on such governing body, shall not receive compensation from any recipient. Pursuant to regulations issued by the Corporation, the Corporation may grant waivers to recipients which, because of the nature of the population they serve, are unable to comply with

the requirement of the first sentence of this subsection. The Corporation shall also insure that at least one-third of the members of such governing body shall consist of persons who are, when selected, eligible clients who may also be representative of associations or organizations of eligible clients. The Corporation shall insure that no individual may serve as a member of a governing body for a period in excess of 5 years.".

COMMINGLING OF FUNDS

SEC. 15. Section 1007 of the Act is amended by adding at the end thereof the following new subsections:

"(i) No funds made available by the Corporation under this Act either by grant or contract may be commingled with the resources of any other organization furnishing legal assistance or otherwise engaged in activities similar to the activities conducted by the grantee or contractee if the purpose or effect of the commingling of the funds is to circumvent any requirement or prohibition contained in this Act.

"(j) The Corporation shall approve all grants, subgrants, contracts, or subcontracts by any recipient if the grant, subgrant, contract, or subcontract directly relates to the provision of legal assistance or research, except that such approval or disapproval shall be made within 60 days from the date upon which the Corporation receives notice from a recipient of an intent to make such a grant, subgrant, contract, or subcontract.".

REPORTS AND AUDITS

SEC. 16. (a) Section 1008 of the Act is amended by adding at the end thereof the following new subsection:

"(f) The Board, within 90 days after the date of enactment of the Legal Services Corporation Amendments of 1985 shall issue regulations requiring each recipient to submit annually to the Corporation a summary of all of the activities of the recipient and each of its subgrantees to ensure compliance with this title. The Corporation shall periodically review such documentation in a manner that protects confidential client information to ensure compliance with this subsection and shall include in its annual report under subsection (c) of this section its findings with respect to compliance. Failure to submit such a report shall be grounds for commencement of the procedures established by the Corporation under section 1006(b)(5).

(b) Section 1009(c) of the Act is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Failure of any recipient of funds paid under this title, either directly by the Corporation or through another recipient, to comply with the requests of the Corporation to conduct an audit in accordance with this section shall be grounds for a denial of refunding or a commencement of the procedures established by the Corporation under section 1006(b)(5).".

FINANCING

SEC. 17. (a) Section 1010(a) of the Act is amended by inserting immediately after the second sentence the following new sentence: "There are authorized to be appropriated for purposes of carrying out the activities of the Corporation $305,500,000 for fiscal year 1987, and such sums as may be necessary for each of the two succeeding fiscal years.".

(b) Section 1010(c) of the Act is amended by inserting before ", except" the following: "or other statute respecting the expenditure of funds".

(c) Section 1010 of the Act is amended by adding the following new subsection:

"(e) All unexpended funds held by recipients or by the Corporation held on the date of enactment of the Legal Services Corporation Amendments of 1985 shall be expended in accordance with the provisions of the amendments made by the Legal Services Corporation Amendments of 1985.".

ENFORCEMENT AND SANCTIONS

SEC. 18. The Act is amended by redesignating sections 1013 and 1014 as sections 1014 and 1015, respectively, and by inserting after section 1012 the following new section:

"ENFORCEMENT

"SEC. 1013. (a) The Corporation may bring an action in the appropriate district court of the United States to compel the specific performance of any agreement between the Board and any recipient for the provision of legal services under this title.

"(b) The Corporation may bring an action in the appropriate district court of the United States for a temporary or permanent injunction or other appropriate relief for the purposes of compelling compliance by a recipient with the provisions of this title or with any rule, regulation, or guideline promulgated pursuant to this title.

"(c) A judgment or order in an action brought under this section shall not require the interruption of the provision of legal services to any eligible client in any action pending on the date of such decision or order, unless the court explicitly so states in such decision or order. If the court does explicitly so state, it shall attempt to make equitable arrangements for the provision of legal services to any eligible client affected thereby.

"(d) For the purpose of the applicability of title 18, United States Code, the Directors, officers, and employees of the Corporation and the members of the board, officers, and employees of all recipients, grantees, contractees, subgrantees, subcontractees, or other persons who receive or are responsible for financial assistance described in subclause (A) of section 1006(a)(1) of this title shall be considered to be Federal employees.".

● Mr. RUDMAN. Mr. President, I am pleased to join with the Senator from Utah today in introducing legislation to reauthorize the Legal Services Corporation. The Legal Services Program is now in its 5th year without an authorization bill and it is high time that one be enacted so there can be some stability in the enabling statutes under which the Corporation operates. Speaking as chairman of the Commerce-Justice-State Appropriations Subcommittee, I can definitively state that those of us who serve on appropriations get no pleasure out of addressing legal services authorizing issues on an annual basis.

It is worth noting, Mr. President, that the subcommittee has been forced to spend more time on legal services authorizing questions over the last 5 years than almost any other issue. On at least one occasion in the last couple of years, I have threatened to include a multiyear reauthorization bill in an appropriations measure. Last year, I promoted the idea of including a simple LSC appropriation with no accompanying authorizing language, whatsoever. Unfortunately, the first course represents an abuse of the congressional process, while the latter is somewhat irresponsible and would probably not reflect the will of Congress. I believe it is important for Congress to consider an LSC authorizing measure through the normal legislative process.

The failure of Congress to adopt legal services authorizing legislation in the last 5 years is attributable to several factors, the major two being the high degree of controversy over a few substantive issues and the desire of the administration to kill the program outright. Neither of these factors should continue to stand in the way of a reauthorization. Compromises have been reached on most of the contentious issues; in fact, the LSC has been operating under essentially identical authorizing provisions which have been added to the appropriations bills each of the last 3 fiscal years. With regard to the latter, even the most ardent opponents of the Legal Services Program should, by now, have come to the realization that the program is here to stay.

The bill the Senator from Utah and I are introducing today is relatively simple. It includes the current appropriations riders with only one clarification relating to lobbying. There are some provisions which are intended to ensure that the Corporation can, in fact, ensure that its grantees comply with applicable provisions of law. Quite frankly, I am not sure that all these provisions are necessary, but I certainly have no difficulty with clarifying the situation. Finally, the bill would add one prohibition on the issues legal services attorneys may address when representing eligible clients—a prohibition on litigation relating to redistricting. I am not absolutely persuaded this provision is necessary but, notwithstanding the fact that it is a bad precedent, I understand the rationale for it. If, however, the inclusion of this provision becomes an excuse for proposing a number of other restrictions, I would be inclined to withdraw my support for it.

In conclusion, Mr. President, the reauthorization measure being introduced by the Senator from Utah and myself is a good bill. I look forward to its consideration by the Senate Committee on Labor and Human Resources and the full Senate, and am hopeful that it will be enacted into law this year.●

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 2410. A bill to amend the Social Security Act to provide for improved treatment of small rural hospitals and sole community hospitals under titles XVIII and XIX of such Act, and for

other purposes; to the Committee on Finance.

RURAL HEALTH CARE IMPROVEMENT ACT

Mr. BAUCUS. Mr. President, today I am introducing the Rural Health Care Improvement Act, a bill that reaffirms our national commitment to quality health care in rural America.

Joining me today as the original cosponsor of this legislation is my colleague from Iowa, Senator GRASSLEY. Identical legislation is being introduced in the House by Congressman JIM JONES of Oklahoma, along with a bipartisan group of cosponsors.

THE IMPORTANCE OF RURAL HOSPITALS

Small rural hospitals are the backbone of rural health care. In many towns across the Nation, the small hospital is not only the central provider of health care. It is often the largest employer. Small hospitals are essential to the quality of life in rural communities. They make their towns better places in which to live and work, better places for new businesses to locate, and better places for retirees to settle.

But small hospitals account for only a fraction of the health costs and patient admissions on which broad national health decisions are based. And, all too often, rural America is overlooked by those who base their decisions on national averages and trends.

RURAL HOSPITALS ARE UNDER PRESSURES TO SURVIVE

There is now growing evidence that rural health care is under severe strain. The margin of financial safety for most rural hospitals is extremely small. Small rural hospitals are simply not able to take advantage of the "law of large numbers." Sharp revenue declines often cannot be offset by the cost-saving measures that larger facilities can use. In addition, small hospitals have fewer outside investments or additional revenue sources when losses must be absorbed.

Still, the health care expenses of small rural hospitals remain relatively low compared with the industry as a whole. However, the recent sharp decline in patient admissions significantly increased the costs per admission in small hospitals last year. The per admission costs rose by 13 percent in small hospitals, while the same costs rose by just over 9 percent for all hospitals in the Nation. And, nearly 70 percent of the Nation's small rural hospitals failed to cover their costs with patient revenues in 1984.

THE RURAL HEALTH CARE IMPROVEMENT ACT

Our bill is a solid first step in addressing many of the unique concerns of small rural hospitals and in helping to preserve access to health care for rural Americans. We also hope this legislation will serve as a catalyst for a new debate on the health care concerns of those Americans who live outside of urban communities.

Our bill has six parts:

First, a rural impact test. The bill would require the Secretary of HHS to analyze all proposed Medicare and Medicaid regulations for their potential impact on small rural hospitals. HHS would be required to identify the costs, benefits, and possible alternatives of proposed rules so that small rural hospitals are not overlooked in the establishment of national standards.

Second, the bill would continue current law for Medicare payments to sole community provider hospitals for their capital-related expenses. It would maintain predictable reimbursement for the capital expenses of these small hospitals in remote communities while Congress considers comprehensive reform of Medicare payments for land, buildings, and medical technology.

Third, the bill would require the HHS Secretary to develop standards that ensure that Medicare payments to small rural hospitals for extremely high cost cases, known as outlier cases, are comparable to those made to all other hospitals. The current standards place small rural hospitals at tremendous financial risk even if they treat only a few patients with complicated conditions.

Fourth, this bill would set aside a small portion of existing HHS funds for research and demonstration projects to improve rural health care. No new funds would be needed. Ten percent of existing R&D funds of the health care financing administration (HCFA) would be used to explore rural health concerns.

Fifth, this bill would require the secretary to make timely payments of Medicare claims to small rural hospitals. Small rural hospitals have fewer sources of outside revenues to rely on. Therefore, it is critical that these institutions be paid on time.

And finally, the bill would establish an office on rural health policy to be located within the office of the administrator of HCFA. This office is needed to focus attention on rural health concerns when HHS develops its budget, legislative and regulatory initiatives. Again, no new funds are required. We believe that existing resources should be used for this purpose.

NEXT STEPS

Action is needed now to preserve the access of all Americans to quality health care.

This Friday, the Senate Finance Committee will hold hearings on the impact of Medicare's new payment policy on small rural hospitals. Medicare is a major source of income for small rural hospitals. Therefore, it is appropriate that reform begin within this essential program.

I will be working to help ensure that the Finance Committee includes the provisions of the Rural Health Care Improvement Act in any health legislation which we consider this year.

Access to health care in rural America cannot be guaranteed by well-meaning rhetoric. We need to act now before more small rural hospitals are forced to close their doors.

Maintaining quality health care in communities separated by vast distances and among sparse populations is a concern in almost every part of the Nation. I believe that enactment of this legislation will help to make sure that the health needs of rural Americans are no longer overlooked. It is high time that rural America is included in the health policy agenda of the Nation.

Mr. President, I ask unanimous consent that my full statement, the text of the bill, and a statement by the Montana Hospital Assocation be included at this point in the RECORD.

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

S. 2410

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 "Rural Health Care Improvement Act of 1986".

SEC. 2. IMPACT ANALYSES OF MEDICARE AND MEDICAID REGULATIONS ON SMALL RURAL HOSPITALS.

(a) REGULATORY IMPACT ANALYSES.—Section 1102 of the Social Security Act (42 U.S.C. 1302) is amended—

(1) by inserting "(a)" after the section designation; and

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

"(b)(1) Whenever the Secretary publishes general notice of proposed rulemaking for any regulation proposed under title XVIII, title XIX, or part B of this title that may have a significant impact on a substantial number of small rural hospitals, the Secretary shall prepare and make available for public comment an initial regulatory impact analysis. Such analysis shall describe the impact of the proposed regulation on such hospitals and shall set forth, with respect to small rural hospitals, the matters required under section 603 of title 5, United States Code, to be set forth with respect to small entities. The initial regulatory impact analysis or a summary shall be published in the Federal Register at the time of the publication of general notice of proposed rulemaking for the regulation.

"(2) Whenever the Secretary promulgates a final version of a regulation with respect to which an initial regulatory impact analysis is required by paragraph (1), the Secretary shall prepare a final regulatory impact analysis for such final rule. Such analysis shall set forth, with respect to small rural hospitals, the matters required under section 604 of title 5, United States Code, to be set forth with respect to small entities. The Secretary shall make copies of the final regulatory impact analysis available to the public and shall publish in the Federal Register at the time of publication of the final rule a statement describing how the public may obtain such copies.

"(3) If a regulatory flexibility analysis is required by chapter 6 of title 5, United States Code, for a regulation to which this

subsection applies, such analysis shall specifically address the impact of the regulation on small rural hospitals.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to regulations proposed after the date of the enactment of this Act.

SEC. 3. CAPITAL-RELATED COSTS OF SOLE COMMUNITY HOSPITALS.

(a) IN GENERAL.—Section 1886(a)(4) of the Social Security Act (42 U.S.C. 1395ww(a)(4)) is amended—

(1) by striking out "or,"; and

(2) by inserting ", or capital-related costs of a sole community hospital (as defined in subsection (d)(5)(C)(ii))" after "Secretary" the second place it appears.

(b) APPLICATION.—The amendments made by subsection (a) shall apply to costs incurred in cost reporting periods beginning after September 30, 1986.

SEC. 4. OUTLIER PAYMENTS FOR SMALL RURAL HOSPITALS AND SOLE COMMUNITY HOSPITALS.

(a) TOTAL OUTLIER PAYMENTS.—Section 1886(d)(5)(A) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(A)) is amended by adding at the end thereof the following new clause:

"(v)(I) The total amount of the additional payments made under this subparagraph for discharges from a hospital described in subclause (II) may not be less than 5 percent nor more than 6 percent of the total payments projected or estimated to be made to all such hospitals based on DRG prospective payment rates for discharges in that year.

"(II) For purposes of subclause (I), a hospital is described in this subclause if it is a sole community hospital (as defined in subparagraph (C)(ii)) with an average occupancy rate of less than 50 beds for the most recently completed 12-month period ending on September 30 or a small rural hospital (within the meaning of section 1883(b)(1)).".

(b) APPLICATION.—The amendments made by subsection (a) shall apply to discharges occurring after September 30, 1986, and before the first October 1 that is more than 270 days after the date on which the Secretary of Health and Human Services submits the report required under section 9113 of the Consolidated Omnibus Budget Reconciliation Act of 1985.

SEC. 5. SET ASIDE FOR RURAL HEALTH EXPERIMENTS AND DEMONSTRATION PROJECTS.

(a) SET ASIDE.—Not less than 10 percent of the total amounts expended by the Secretary with respect to experiments and demonstration projects authorized by section 402 of the Social Security Amendments of 1967 and the experiments and demonstration projects authorized by section 222(a) of the Social Security Amendments of 1972 shall be for experiments and demonstration projects relating exclusively to rural health issues, including (but not limited to) access to care, quality of care, financial viability of small rural hospitals, the ability of rural areas (and rural hospitals in particular) to attract and retain physicians and other health care personnel, and alternative staffing requirements for small rural hospitals.

(b) AGENDA.—The Secretary of Health and Human Services shall establish an agenda of experiments and demonstration projects which relate exclusively to rural health issues that are in progress or have been proposed, and shall include such agenda in the annual report submitted pursuant to section 1875(b) of the Social Security Act.

SEC. 6. PAYMENTS TO CERTAIN SMALL RURAL HOSPITALS.

(a) TIMELY PAYMENT OF CLAIMS.—Section 1816 of the Social Security Act (42 U.S.C. 1395h) is amended by adding at the end thereof the following new subsection:

"(i)(1) Any agreement entered into or renewed under this section shall provide that the agency or organization shall issue and mail (or otherwise transmit) any payment required to be made pursuant to this part to a qualified small rural hospital not later than—

"(A) thirty days after the date on which the agency or organization receives a request for such payment that is timely and conforms with the requirements established by the Secretary under section 1814(a)(1); or

"(B) the average number of days elapsing before such agency or organization issues and mails (or otherwise transmits) payment for claims submitted with respect to individuals other than individuals entitled to benefits under this part,

whichever is earlier.

"(2) For purposes of paragraph (1), a 'qualified small rural hospital' is a small rural hospital (within the meaning of section 1883(b)(1)—

"(A) for which the ratio of the total number of patient days for patients entitled to benefits under this part to the total number of patient days for all patients for the most recently completed 12-month period ending on September 30 is greater than the ratio of medicare patient days to all patient days for all subsection (d) hospitals for such 12-month period (as determined by the Secretary), and

"(B) which is not paid periodic interim payments under section 1815(a).".

"(b) APPLICATION.—The amendment made by subsection (a) shall apply to agreements entered into or renewed after the date of enactment of this Act.

SEC. 7. OFFICE OF RURAL HEALTH POLICY.

Title VII of the Social Security Act is amended by adding at the end thereof the following new section:

"OFFICE OF RURAL HEALTH POLICY

"SEC. 711. There shall be established in the Office of the Administrator of the Health Care Financing Administration (hereafter in this section referred to as the 'Administrator') an Office of Rural Health Policy (hereafter in this section referred to as the 'Office'). The Office shall be headed by a Director, who shall advise the Administrator on the effects of current policies and proposed statutory, regulatory, administrative, and budgetary changes in the programs established under titles XVIII and XIX on rural health, including access to care, quality of care, viability of small rural hospitals, and the ability of rural areas (and rural hospitals in particular) to attract and retain physicians and other health care personnel. The Director shall also oversee compliance with the requirements of section 1102(b) of this Act and section 5 of the Rural Health Care Improvement Act of 1986.".

STATEMENT OF THE MONTANA HOSPITAL ASSOCIATION ON THE IMPACT OF THE PROSPECTIVE PAYMENT SYSTEM ON SMALL AND RURAL HOSPITALS

America's small and rural hospitals are literally and figuratively at a crossroad. These hospitals stand in communities that serve rural America as local and regional trading and service centers. The hospital is the focal point of rural health services, created by the community it serves through the donation of money, energy and talent. After World War II the United States experienced a boom in new hospital construction, spurred on, in part, by the Hill-Burton program. Many small and rural hospitals were built during this period, bringing the benefits of modern medical technology closer to an underserved population. The boom is over. Small and rural hospitals, as a group, are beginning a cycle of decline. They stand today at a crossroad of another sort. Down one road, the pattern of decline will continue. Small and rural hospitals will close. According to the American Hospital Association, more than 70 percent of the 61 hospitals that closed in 1985 had fewer than 100 beds. Down the other road, there is hope. There is no guarantee against closure, but down the road is the promise that through thoughtful strategic planning and sound financial management chances of survival are enhanced.

On behalf of the sixty short stay non-federal, non-state owned hospitals in Montana, fifty of which are under one-hundred beds in size, the Montana Hospital Association welcomes the opportunity to present this statement. We would like to explain how small and rural hospitals came to this crossroad and the meaning and consequence of the two possible paths they can follow. To illustrate our discussion we will use the utilization and financial information of the thirty Montana hospitals that have fewer than thirty beds.

The adoption of the prospective payment system (PPS) in October 1983 was a landmark event in the history of American hospitals. Dramatic changes in utilization and finance can be marked from that date. For example, in 1981 the average length of stay at these sample hospitals was 4.54 days. There was no change in length of stay between 1981 and 1982. In 1983, the last year before PPS average length of stay declined to 4.48 days, a modest 1.4 percent decrease. In 1984, the first year of PPS, the average length of stay plummeted to 4.05 days, a one year drop of 9.7 percent. It was originally felt that this drop represented a medical practice adjustment to PPS. The primary incentive of PPS is for hospitals to treat patients more efficiently. With such a low length of stay after the first PPS year it was assumed that all of the practice inefficiency had been wrung out of hospital utilization. (The national average length of stay in 1984 was 7.3 days.) However, in 1985 length of stay fell again, this time below 4 days to 3.88 days. In two years, the average length of stay has dropped 13.4 percent. Although length of stay has exhibited a downward trend in recent years, it has been rapidly accelerated by PPS.

The other side of the utilization equation is admissions per year. In 1981 total admissions were 14,460; the following year, 1982, they climbed to 14,090. In 1983 they returned to approximately 1981 levels or 14,538. In the first year of PPS, 1984, they fell sharply to 13,716, a reduction of 5.7 percent. Once again it was believed that the decline represented a one-time practice adjustment to PPS and peer review organization criteria, but again that assumption was proved wrong. In 1985, admissions dropped to 11,687, a one-year decline of 14.8 percent. In the two years of the PPS system, admissions in the sample hospital have fallen by 19.6 percent. Certainly, outmigration of patients from rural hospitals to secondary and tertiary facilities is a trend that has been occurring in recent years, but the rapid de-

cline in the last two years in hospital admissions can largely be accounted for by the adoption of PPS.

A shorter length of stay and reduced admissions conspire to produce the third measure of utilization, inpatient days. Over the course of four years, the sample hospitals lost approximately one-third of their patient days! In 1982 they provided 67,749 days of care; in 1983, 65,130 days of care were provided, or 3.9 percent fewer than the previous year. In the first year of PPS, patient days declined by 14.8 percent to 55,497 days of care. In 1985, they dropped by another 18.2 percent to 45,375. The two year PPS effect of shortened lengths of stays and fewer admissions resulted in a reduction in patient days of 30.3 percent.

Declining utilization has its effect on hospital finance. Hospital expenses are unable to decline in direct proportion to reductions in utilization. Small hospitals must contend with fixed costs. A standard definition of fixed costs in difficult to obtain in the hospital industry. There is widespread agreement on expense elements such as depreciation, interest, insurance, and rentals. There is less agreement on the amount of expense in categories such as salaries, benefits, supplies and utilities that can be considered fixed. Some estimate that as much as 75 to 80 percent of all hospital expense exhibits a fixed cost behavior. Certainly in small hospitals the percentage is somewhat greater. When a hospital employs only one pharmacist, it is difficult to reduce his time; when only one night RN and her weekend coverage are on the payroll, it is difficult to implement creative staffing strategies. Smaller hospitals have less flexibility than larger hospitals. Many of their fixed expenses are the result of meeting licensure and Medicare participation regulations.

All expenses, whether fixed or variable, are increasing in terms of unit cost. In 1984, despite a decline of 14.8 percent in patient days, total expenses increased by 4.3 percent. In the face of an 18.2 percent patient day decline in 1985, total expenses dropped by only 1.6 percent. Because expense cannot decline in proportion to utilization, it necessarily follows that the cost per unit of service, cost per case, must rise. First there are fewer units over which to spread fixed costs and second the price of variable costs continues to rise as suppliers demand more for goods and services. Between 1984 and 1985 the average cost per case increased by 10.2 percent. This level of increase was made possible only by across the board cuts in all expense categories. There is very little left to cut.

The first PPS year, 1984, was a bad year for small and rural hospitals in Montana. The second PPS year was even worse. In 1985 total inpatient revenue fell for the second straight year to the lowest level since 1981. In 1984, the study hospitals posted a loss from operations of $2,209,183. In 1985, the loss increased to $2,232,758 on net patient revenue of $21,096,829.

Many of these small and rural hospitals benefit from non-operating revenue. Non-operating revenue comes from two major sources. First there is government appropriations from countries and taxing districts, then there is interest income on investments and donations. In 1984, tax-based non-operating revenue equaled $1,148,272. In 1985, reacting to the plight of small and rural hospitals, that figure increased a generous 53.8 percent to $1,765,949. In 1984, other non-operating revenue equaled $2,127,280. In 1985 it fell by 63 percent to $787,523. Non-operating revenue fell because interest rates were lower in 1985 than 1984. The sample hospitals also had less money to invest in 1985 as the permanent investment in larger accounts receivable took away the opportunity to invest in interest bearing accounts, as as hospitals spent their reserves on operations. In 1984, non-operating revenue offset the loss from operations to allow a $1,066,369 surplus for the thirty hospitals. In 1985, non-operating revenue also offset the loss from operations, but the loss was greater and the non-operating revenue was less than in 1984. In 1985, the sample hospitals showed a surplus of $320,714, or an average of less than $11,000 per hospital.

These hospitals are clearly on the edge. They have taken the steps that can be taken. They reduced staff; they eliminated waste; they deferred discretionary expenses. Slower payments from Medicare due to billing complexity and programmed slow-downs threatens solvency and credit worthiness. The sample hospitals had an average payment period of 86.75 days in 1985. This is an extremely long time, when one considers that over one-half of a hospital's expense is payroll and it is paid every two weeks. (The national median average payment period in 1984 was 53.25 days.) How long is it before suppliers refuse to sell goods to these hospitals because they do not pay promptly? Cash flow is a major problem.

Thirty communities across Montana depend on these hospitals. From Ekalaka to Libby, from Plentywood to Dillon these small hospitals provide needed services. Despite there number, in the aggregate they are still small. The total operating revenue of the thirty constitutes about fifty percent of the operating revenue of *one* of the state's larger hospitals (250 bed range).

PPS is a risk shifting experiment. Small and rural hospitals stand to lose greatly under the program. Despite flaws such as the rural/urban payment differential and the area wage index that can create a 30 percent or greater payment differential between hospitals for the same DRG, the major problem with PPS for small and rural hospitals is its basic premise. Prospective payment on a per-case system is an inappropriate payment mechanism for small and rural hospitals. It does not adequately address problems of declining admissions and case-mix changes. The Montana Hospital Association would instead favor a return to cost reimbursement for small and rural hospitals. Cost-based reimbursement recognizes changes in cost related to case mix, admission declines and modifications in community demand. These hospitals participated in the PPS experiment. For them, it did not succeed. The probable consequence of failure is closure. The result will be that many people in rural communities do not have access to needed health services.

Does a continuation of PPS save the Medicare system money? First, there is a question of materiality. These thirty sample hospitals in the aggregate not equal in cost or revenue one hospital of national average size. Second, if these hospitals close, much of the care will be transferred to rural referral centers and urban hospitals which are paid at a richer PPS rate. In other words, the same laundry list of DRGs will cost approximately 30 percent more. Third, due to travel problems nascent medical conditions will likely be postponed until they become acute, increasing the intensity and cost of medical intervention.

So here we stand at the crossroad. We can continue down the PPS road. If we can predict the future based upon the past, we will experience continued utilization declines, slowed claims processing and inadequate payments. Not too far down the road, we can predict many small and rural hospitals closing.

We, as a nation, have another choice. We can agree that PPS is not appropriate for small and rural facilities and return to cost-based reimbursement. This course guarantees nothing. Small and rural hospitals must still contend with the other problems of rural America—physician recruitment, economics and demographics. The return to cost-based reimbursement merely establishes a level playing field upon which small and rural hospitals can carry out their patient care missions.

Mr. GRASSLEY. Mr. President, today I rise to introduce legislation with my colleague from Montana, Senator BAUCUS, that will offer some relief for our small rural hospitals suffering from changes in the Medicare Program. Since the advent of the prospective payment system for reimbursing hospitals in 1983, many of the Nation's rural hospitals are facing operating deficits that threaten their continued existence.

Patient admissions have declined in our rural hospitals by 16 percent in 1984 and 1985, as compared to the national average of 6.2 percent. At the same time, cost per admission has increased for these same rural hospitals by 13 percent, as compared to the costs of their larger counterparts of 9 percent.

Small rural hospitals are far more vulnerable to declines or wide swings in patient volume and case mix. Rural areas in the Midwest have a high percentage of elderly residents and, therefore, rural hospitals have a greater proportion of Medicare admissions in their patient load. Almost 60 percent of admissions in Iowa rural hospitals are Medicare patients and consequently, our rural hospitals have less flexibility to respond to financing shortfalls through outside resources or private pay patients.

My colleagues are familiar with an earlier problem with the prospective payment system in which a flawed area wage index failed to take into consideration the greater use of part-time workers in rural hospitals when calculating labor costs among hospitals. After much delay, the Health Care Financing Administration finally produced a new area wage index which is a more accurate reflection of labor costs. Although offering some degree of parity, this adjustment has addressed just one of the inequities plaguing the system for rural hospitals. Nonlabor standardized reimbursement continues to be 54 percent higher for urban than for rural hospitals in the Midwest region.

Even the most recent April 1 report of the Prospective Payment Assessment Commission concludes that the prospective payment system has ad-

versely affected rural hospitals. Both the original PPS legislation in 1983 and the Deficit Reduction Act of 1985 required the Secretary to study a number of rural hospital issues, yet they remain undone. ProPAC urges the Secretary to complete and publish the congressionally mandated studies to determine what changes in payment policies are needed for rural hospitals. In the meantime, Senator BAUCUS and I are offering a package of legislative changes that we feel would address some of these issues.

First, our bill would require the Secretary of Health and Human Services to analyze the impact of all proposed Medicare and Medicaid regulations for their effect on rural hospitals. Current law does exist to require analysis of regulations on small economic entities, however, HHS rarely performs these studies. This provision would require a front-end analysis so that small, rural hospitals are not overlooked in the establishment of Federal regulations.

A second provision in this bill would ensure that our small hospitals receive their fair share of "outlier" payments for high-cost cases. Currently, rural hospitals only receive about 1 percent of their PPS payments in the form of outliers, as compared to all other hospitals that receive about 5 percent of their revenues in outlier payments.

A third provision in our bill continues current law for Medicare payments to sole community providers for their capital related expenses. Because of the uncertainty of congressional action on the capital cost issue this year, it is important to ensure that these hospitals will receive their share of Federal payments for capital costs.

This legislation also creates a 10 percent set-aside within existing HCFA funds for research and development to study rural health care concerns. It is our hope that such funds will examine such issues as maintaining access to care in rural settings, and attracting and maintaining health professionals in rural areas.

Another provision would ensure prompt payment of Medicare payments to small rural hospitals by setting a 30-day standard for payment. Because rural hospitals are more dependent on Medicare dollars than other hospitals which may have more outside revenue resources, it is critical that payment slowdowns do not adversely affect the ability of rural hospitals to pay their operating expenses.

Lastly, the final provision in the bill establishes an office on rural health care within the office of the Administrator of HCFA. This office would help focus attention on rural health concerns in the development of budget, legislative, and regulatory initiatives within HHS.

Although this package of legislative changes will not provide all the help that is needed to ensure the viability of our rural hospitals, we feel it is a good start in addressing many of the concerns that have too often been overlooked by the administration and the Congress. I hope that my colleagues will join us in cosponsoring this important legislation.

By Mr. D'AMATO:

S. 2411. A bill to prohibit possession, manufacture, sale, importation, and mailing of ballistic knives; to the Committee on the Judiciary.

BALLISTIC KNIFE PROHIBITION ACT

● Mr. D'AMATO. Mr. President, I rise today to introduce the Ballistic Knife Prohibition Act of 1986. This bill has been introduced in the House of Representatives as H.R. 4711 by my good friend, Congressman BIAGGI. Our legislation bans the manufacture, mailing, importation, sale, or possession of the so-called ballistic knife. This weapon has a detachable blade propelled by a spring-operated mechanism.

The need for this legislation was first called to my attention by the district attorney of Nassau County, NY, Denis Dillon. Although the ballistic knife looks like an ordinary knife, it can be propelled 30 feet with great force and velocity by the push of a button. Nassau County police confiscated one of these knives recently during a narcotics raid.

The danger to law enforcement officers is as serious as it is obvious. As Mr. Dillon has said, "An officer seeing the knife may not know that all the criminal has to do is press a button and the knife is shot into his body."

I urge my colleagues to cosponsor and support this bill, so that we may move as soon as possible to deprive criminals of a deadly weapon that has no legitimate sporting purpose, but that can maim and even kill our already all too vulnerable police officers. I ask unanimous consent that the text 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. 2411

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 "Ballistic Knife Prohibition Act of 1986".

SEC. 2. PROHIBITION OF POSSESSION, MANUFACTURE, SALE, AND IMPORTATION OF BALLISTIC KNIVES.

The Act entitled "An Act to prohibit the introduction, or manufacture for introduction, into interstate commerce of switchblade knives, and for other purposes" (15 U.S.C. 1232 et seq.) is amended by adding at the end the following:

"SEC. 7. (a) Whoever knowlingly possesses, manufactures, sells, or imports a ballistic knife shall be fined as provided in title 18, United States Code, or imprisoned not more than ten years, or both.

"(b) Whoever possesses or uses a ballistic knife in the commission of a Federal or State crime of violence shall be fined as provided in title 18, United States Code, or imprisoned not less than five years and not more than ten years, or both.

"(c) The exceptions provided in paragraphs (1), (2), and (3) of section 4 with respect to switchblade knives shall apply to ballistic knives under subsection (a) of this section.

"(d) As used in this section, the term 'ballistic knife' means a knife with a detachable blade that is propelled by a spring-operated mechanism.".

SEC. 3. NONMAILABILITY OF BALLISTIC KNIVES.

Section 1716 of title 18, United States Code, is amended by inserting after subsection (h) and before the first undesignated paragraph after such subsection the following:

"(i)(1) Any ballistic knife shall be subject to the same restrictions and penalties provided under subsection (g) for knives described in the first sentence of that subsection.

"(2) As used in this subsection, the term 'ballistic knife' means a knife with a detachable blade that is propelled by a spring-operated mechanism.".●

● By Mr. McCLURE (for himself, Mr. WALLOP, Mr. GOLDWATER, Mr. HECHT, and Mr. LAXALT):

S. 2412. A bill to withdraw and reserve certain public lands; to the Committee on Energy and Natural Resources.

WITHDRAWAL AND RESERVATION OF CERTAIN PUBLIC LANDS

● Mr. McCLURE. Mr. President, in the 98th Congress, the administration belatedly transmitted a number of bills that would have withdrawn approximately 7.5 million acres of public lands for use by the Department of Defense for military purposes. The Public Lands, Reserved Water and Resource Conservation Subcommittee held a hearing on the bills in August 1984. Neither the Senate nor the House moved the bills passed the hearing stage and they died at the end of the 98th Congress.

The lands involved were—with the exception of 90,000 acres at Nellis AFB—all withdrawn for military purposes at one time. However, all public laws, Executive orders, and public land orders creating their withdrawal have expired. Military use of the areas involved is continuing, but without the required statutory approval by Congress.

Congressional concern over executive withdrawals of public lands for military purposes led to enactment of the act of February 28, 1958 (72 Stat. 27), frequently referred to as the Engle Act. The basic purposes of the act were set out by the House Committee on Interior and Insular Affairs as follows:

H.R. 5538 deals with defense agency acquisition and use of the public lands and associated resources of the United States for defense purposes. The broad purpose and objective of the bill is to return from the executive branch to the Congress—to the

extent that such lands are involved—the responsibility imposed by the Constitution on the Congress for their management. H.R. 5538, in addition, would set out clear-cut statutory requirements for the utilization and disposition of certain of the resources found within existing and future military installations and facilities so as to assure highest and best management, conservation, utilization and development thereof on a continuing basis (H.R. Rep. No. 215 85th Congress, 1st Session, 1957).

The areas proposed for withdrawal are:

Name and State	*Acres*
Bravo-20 Bombing Range—Nevada	21,576
Nellis Air Force Range—Nevada	2,945,000
Luke Air Force Range—Arizona	2,664,423
McGregor Range—New Mexico	608,384
Ft. Greely Maneuver Area—Alaska	571,995
Ft. Wainwright Maneuver Area—Alaska	247,951
Chocolate Mountain Aerial Gunnery Range—California	132,928
China Lake Naval Weapon Center—California	1,100,000

Mr. President, since each of these measures involved, with a few exceptions, virtually identical provisions. We propose a single measure covering all areas. We believe this will expedite committee consideration. We do want to emphasize that this is only a vehicle for the purposes of introduction and initial committee consideration. Please note in the bill that the lands are withdrawn from 1872 mining laws and the mineral and geothermal leasing acts. No new, specific reservation of water is proposed in the bill.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

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

S. 2412

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to valid existing rights, the following lands are hereby withdrawn from all forms of appropriation under the public land laws:

(a) approximately 21,576.40 acres of public land in Churchill County, Nevada, as generally depicted on a map entitled "Bravo-20 Bombing Range Withdrawal—Proposed" dated January 1985, and all other lands within the boundaries of the Bravo-20 Bombing Range that are now or may hereafter become subject to the operation of the public land laws for use of the Department of the Navy as a testing and training area for aerial bombing, missile firing, tactical maneuvering and air support, and for other defense related uses consistent therewith: *Provided,* That this Act does not affect the withdrawals of July 2, 1902, August 26, 1902, and August 4, 1904, under which the Bureau of Reclamation utilizes for flooding, overflow, and seepage purposes approximately 14,750 acres of the lands withdrawn reserved by this Act;

(b) approximately 2,945,000 acres of land in Clark, Nye and Lincoln Counties, Nevada, as generally depicted on a map entitled "Nellis Air Force Range Withdrawal—Proposed" dated January 1985, are hereby withdrawn from all forms of appropriation under the public land laws for use of the Department of the Air Force as an armament and high hazard testing area, a training area for aerial gunnery, rocketry, electronic warfare, tactical maneuvering and air support, and for other defense related uses consistent therewith: *Provided,* That except to the extent rendered necessary by national defense, this Act does not affect (1) the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 929, as amended; 16 U.S.C. 668dd et seq.) as it applies to the Desert National Wildlife Range; (2) any executive order or public land order in effect on the date of enactment of this Act that affects the Desert National Wildlife Range; or (3) any memorandum of understanding between the Department of the Interior and the Department of the Air Force, regarding the administration and joint use of a portion of the Desert National Wildlife Range;

(c) approximately 2,664,423 acres of land in Maricopa, Pima and Yuma Counties, Arizona, as generally depicted on a map entitled "Luke Air Force Range Withdrawal—Proposed" dated January 1985, for use of the Department of the Air Force as an armament and high hazard testing area, a training area for aerial gunnery, rocketry, electronic warfare, tactical maneuvering and air support, and for other defense related uses consistent therewith: *Provided,* That except to the extent rendered necessary by national defense, this Act does not affect (1) the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 929, as amended; 16 U.S.C. 668dd et seq.) as it applies to the Cabeza Prieta National Wildlife Refuge; (2) any executive order or public land order in effect on the date of enactment of this Act that affects the Cabeza Prieta National Wildlife Refuge; or (3) any memorandum of understanding between the Department of the Interior, the Department of the Air Force, and the Department of the Navy regarding the administration and joint use of a portion of the Cabeza Prieta National Wildlife Refuge;

(d) approximately 608,384.87 acres of public land in Otero County, New Mexico, as generally depicted on a map entitled, "McGregor Range Withdrawal—Proposed" dated January 1985, for use by the Department of the Army as a training and weapons testing area, and for other defense related uses consistent therewith;

(e) approximately 571,995 acres of public land in the Big Delta area, Alaska, as generally depicted on a map entitled "Fort Greely Maneuver Area Withdrawal—Proposed" dated January 1985, and approximately 51,590 acres of public land in the Granite Creek area, Alaska, as generally depicted on map entitled "Fort Greely Air Drop Zone Withdrawal—Proposed" dated January 1985, for use of the Department of the Army for military maneuvers, training, equipment development and testing, and other defense related uses consistent therewith;

(f) approximately 247,951.67 acres of public land in the Fourth Judicial District, Alaska, as generally depicted on a map entitled "Fort Wainwright Maneuver Area Withdrawal—Proposed" dated January 1985, for use of the Department of the Army as a military maneuver area, a training area for artillery firing, aerial gunnery, infantry tactics, and other defense related uses consistent therewith;

(g) approximately, 132,928 acres of public land in Imperial County, California, as generally depicted on map entitled "Chocolate Mountain Aerial Gunnery Range Withdrawal—Proposed" dated January 1985, and all other lands within the boundaries of the Chocolate Mountain Aerial Gunnery Range that are now or may become subject to the operation of the public land laws, for use of the Department of the Navy as a testing and training area for aerial bombing, missile firing, tactical maneuvering and air support, and for other defense related uses consistent therewith; and

(h) the Federal lands located within the boundaries of the Naval Weapons Center, within Inyo, Kern, and San Bernardino Counties, California, comprising approximately 1,100,000 acres, as generally depicted on a map entitled "China Lake Naval Weapons Center Withdrawal—Proposed" dated January 1985, for use of the Department of the Navy as a research, development, test and evaluation laboratory and range for air warfare weapon and weapon systems, a high hazard training area for aerial gunnery, rocketry, electronic warfare and countermeasures, tactical maneuvering and air support, and for other defense related uses consistent therewith.

SEC. 2. (a) As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall:

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this Act; and

(2) file maps and the legal description of the lands withdrawn and reserved by this Act with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives.

(b) Such maps and legal descriptions shall have the same force and effect as if they were included in this Act: *Provided,* That the Secretary of the Interior may correct clerical and typographical errors in such maps and legal descriptions.

(c) Copies of the maps and legal descriptions tha are filed with the Committees shall be available for public inspection in the office of the Director, Bureau of Land Management, Washington, DC, and, as appropriate, in the office of the Director, Nevada State office of the Bureau of Land Management, Reno, Nevada; the office of the Commander, Bravo-20 Bombing Range; the office of the Director, Fish and Wildlife Service, Washington, DC; the office of the Regional Director, Fish and Wildlife Service, Portland, Oregon; the office of the Commander, Nellis Air Force Base; the office of the Director, Arizona State office of the Bureau of Land Management, Phoenix, Arizona; the office of the Director, Fish and Wildlife Service, Washington, DC; the office of the Regional Director, Fish and Wildlife Service, Albuquerque, New Mexico; the office of the Commander, Luke Air Force Base; the office of the Director, New Mexico State office of the Bureau of Land Management, Sante Fe, New Mexico; the office of the Commander, McGregor Range; the office of the Director, Alaska State office of the Bureau of Land Management, Anchorage, Alaska; the office of the Installation Commander, Fort Richardson, Alaska; the office of the Director, California State office of the Bureau of Land Management, Sacramento, California; the office of the Commander, Marine Corps Air Station, Yuma, Arizona; and the office of the Commander, Naval Weapons Center, China Lake, California.

SEC. 3. The responsibilities of the Secretary of the Interior for management of the lands withdrawn and reserved by this Act are established as follows:

(a) The Secretary of the Interior shall manage the lands and their resources, to the extent possible in accordance with the provisions of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, as amended; 43 U.S.C. 1701 et seq.), and for other applicable laws, for uses which may include, but are not limited to, grazing, management of wildlife habitat, control of predatory animals, and the prevention and suppression of brush and range fires resulting from nonmilitary activities. Except as set forth in section 4(a) of this Act, the Secretary of the Interior shall also be responsible for the issuance of all easements and rights-of-way over the lands withdrawn and reserved by this Act. All such uses, and the issuance of all easements and rights-of-way, shall be secondary to the military use of the lands and shall be authorized only with the concurrence of, as appropriate, the Secretary of the Navy, the Secretary of the Army, or the Secretary of the Air Force.

(b)(1) Within 5 years after the date of the enactment of this Act, the Secretary of the Interior and the Secretary of the Navy, Army, or Air Force, as appropriate, shall develop a land use plan and management program for the use and management of the lands withdrawn and reserved by this Act.

(2) The lands within the Desert National Wildlife Range shall be managed by the Secretary of the Interior in accordance with the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 929, as amended; 16 U.S.C. 668dd et seq.), except to the extent that other uses are required for purposes of national defense.

(3) The lands within the Cabeza Prieta National Wildlife Refuge shall be managed by the Secretary of Interior in accordance with the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 929, as amended; 16 U.S.C. 668dd et seq.), except to the extent that other uses are required for purposes of national defense.

(4) Consistent with the provisions of the Act of September 15, 1960 (74 Stat. 1052, as amended; 16 U.S.C. 670a-670f), the Secretary of the Interior, the Secretary of the Army, and the State of Alaska shall develop, within one year after the date of enactment of this Act, an agreement for the management, conservation, and enhancement of fish and wildlife resources on the lands withdrawn and reserved by this Act within the State of Alaska.

(5) In developing the management plan under subsection (b) for the lands withdrawn under section 1(e) and 1(f), the Secretary of the Interior shall consult with other Federal agencies and the State of Alaska. Such plan shall include a fire management plan which considers habitat improvement and other resource values.

SEC. 4. The responsibilities of the Secretary of the Navy, Army, or Air Force, as appropriate (hereinafter referred to as the Secretary) for management of the lands withdrawn and reserved by this Act are established as follows:

(a) The Secretary shall have the authority to control the military use of the lands and may authorize use of the lands by the other military departments and agencies of the Department of Defense and the Department of Energy, as appropriate or by the public for recreation, hunting, fishing, and trapping to the extent the Secretary determines.

(b) When military operations, public safety or national security, as determined by the Secretary, require the closure of roads and trails commonly in public use, the Secretary is authorized to take such action: *Provided*, That such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. Appropriate warning notices shall be kept posted during closures.

(c) The Secretary shall take necessary precautions to prevent and suppress brush and range fires occurring within and outside the lands as a result of military activities and may seek assistance from the Bureau of Land Management in the suppression of such fires. The memorandum of understanding required by section 5 of this Act shall provide for Bureau of Land Management assistance in the suppression of such fires, and for a transfer of funds from the Department of the Navy, Army, or Air Force, as appropriate, to the Bureau of Land Management as compensation for such assistance.

(d) The Secretary of the Navy shall have responsibility for the management of the wild horses and burros on the lands withdrawn under section 1(h) and is authorized to utilize helicopters and motorized vehicles for the management and control of such animals.

(e) The Secretary of the Navy may utilize sand, gravel or similar mineral or mineral material resources when the use of such resources is required for construction needs of the Naval Weapons Center, China Lake.

SEC. 5. The Secretary of the Interior and the appropriate Secretary shall enter into a memorandum of understanding to implement the program developed in accordance with section 3(b) of this Act, and shall continue in effect (1) any memorandum of understanding between the Department of the Interior and the Department of the Air Force covering the administration and joint use of a portion of the Desert National Wildlife Range, and (2) any memorandum of understanding between the Department of the Interior, the Department of the Air Force, and the Department of the Navy covering the administration and joint use of a portion of the Cabeza Prieta National Wildlife Refuge. The term of the memorandums of understanding shall be the same as the term of the withdrawal established by this Act; however, the provisions of the memorandum of understanding may be amended upon mutual consent of the Secretaries.

SEC. 6.(a) Except as provided otherwise in this section, the withdrawal and reservation established by this Act shall terminate 25 years from the effective date of this Act.

(b) At least 3 years prior to the termination of the withdrawal and reservation established by this Act, the appropriate Secretary shall advise the Secretary of the Interior as to whether or not the Department of the Navy, Army, or Air Force, as appropriate, will have a continuing military need for any of the lands after the termination date.

(1) If the Secretary concludes that there will be a continuing military need for any of the lands after the termination date, he shall file an application for extension of the withdrawal and reservation of such lands in accordance with the regulations and procedures of the Department of the Interior applicable to the extension of withdrawals. Upon the filing of an application for extension, the withdrawal and reservation established by this Act shall remain in full force and effect pending processing of the application and a decision and action on the proposed withdrawal and reservation by the Secretary of the Interior, and, if the application for extension is subject to the requirement of section 2 of the Act of February 28, 1958 (72 Stat. 27; 43 U.S.C. 156), by the Congress.

(2) If the Secretary concludes that, after the termination date established by subsection (a) of this section, there will be no military need for all or any of the lands withdrawn and reserved by this Act, or if, during the period of withdrawal and reservation, the Secretary decides to relinquish all or any of the lands withdrawn and reserved by this Act, the Secretary shall file a notice of intention to relinquish with the Secretary of the Interior.

(3) Prior to the filing of a notice of intention to relinquish pursuant to paragraph (2) of this subsection, the Secretary shall prepare a written determination as to whether and to what extent the lands are contaminated with explosive, toxic or other hazardous materials. A copy of the determination made by the Secretary shall be supplied with the notice of intention to relinquish.

Copies of both the notice of intention to relinquish and the determination concerning the contaminated state of the lands shall be published in the Federal Register by the Secretary of the Interior.

(A) If the lands are contaminated, and the Secretary, in coordination with the Secretary of the Interior, determines that decontamination is practicable and economically feasible, taking into consideration the potential future use and value of the lands, and that upon decontamination the lands could be opened to operation of the public land laws, including the mining laws, the Secretary shall decontaminate the lands, unless Congress declines to appropriate funds for the project.

(B) If the Secretary and the Secretary of the Interior conclude either that decontamination of any or all of the lands proposed for relinquishment is not practicable or economically feasible, or that the lands cannot be decontaminated sufficiently to allow them to be opened to operation of the public land laws, or if Congress declines to appropriate funds for the decontamination of the lands, the Secretary of the Interior shall not be required to accept the lands proposed for relinquishment.

(c) If, because of their contaminated state, the Secretary of the Interior declines to accept jurisdiction over the lands proposed for relinquishment, the withdrawal and reservation established by this Act shall continue indefinitely and the lands shall be retained and managed in accordance with the provisions of this Act. In such case, beginning with the fifth anniversary of the termination date of the withdrawal and reservation established by this Act, and every 5 years thereafter, the Secretary, in coordination with the Secretary of the Interior, shall determine whether decontamination of any or all of the lands is both practicable and economically feasible. If the Secretaries conclude that decontamination is both practicable and economically feasible, taking into consideration the potential future use and value of the lands, and that upon decontamination the lands could be opened to operation of the public land laws, including the mining laws, the Secretary shall decontaminate the lands, unless Congress declines to appropriate funds for the project. Following decontamination and upon certification by the Secretary that the lands are safe for all nonmilitary uses, the Secretary of the

Interior shall reconsider accepting jurisdiction over the lands.

(d) Notwithstanding any other provisions of law, the Secretary of the Interior, upon deciding that it is in the public interest to accept jurisdiction over the lands proposed for relinquishment, is authorized to revoke the withdrawal and reservation established by this Act, as it applies to the lands proposed for relinquishment. Should the decision be made to revoke the withdrawal, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall terminate the withdrawal and reservation; constitute official acceptance of full jurisdiction over the lands by the Secretary of the Interior; and state the date upon which the lands will be opened to the operation of the public land laws, including the mining laws.

SEC. 7. (a) The functions of the Secretary under this Act may be delegated.

(b) The functions of the Secretary of the Interior under this Act may be delegated, except that the order referred to in section 6(d) of this Act, may be approved and signed only by the Secretary of the Interior, the Under Secretary of the Interior, or an Assistant Secretary of the Department of the Interior.

SEC. 8. The following public land orders, as amended, are hereby revoked: Public Land Order 673, of October 6, 1950; Public Land Order 3450, of September 23, 1964; and Public Land Order 431, of December 19, 1947.

SEC. 9. Nothing in this Act shall be construed to establish a reservation to the United States with respect to any water or water right on the lands described in Section 1 of this Act. Nor shall any provision of this Act be construed as authorizing the appropriation of water on lands described in Section 1 of this Act by the United States except in accordance with the established law of the States in which the lands described in Section 1 are located.

SEC. 10. All hunting, fishing, and trapping on the lands withdrawn by this Act shall be conducted in accordance with the provisions of title 10, United States Code, section 2671, except that hunting, fishing, and trapping within the Desert National Wildlife Range and the Cabeza Prieta National Wildlife Refuge shall be conducted in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).●

By Mr. BENTSEN:

S. 2413. A bill to provide that the judicial conferences of each circuit be convened at the discretion of the chief judge of such circuit; to the Committee on the Judiciary.

MAKING PERMISSIVE AN ANNUAL JUDICIAL CONFERENCE OF ALL CIRCUIT, DISTRICT, AND BANKRUPTCY JUDGES

● Mr. BENTSEN. Mr. President, today I am pleased to introduce legislation which will amend section 333 of title 28 of the United States Code. Presently, this statute requires an annual judicial conference of all circuit, district, and bankruptcy judges within each circuit or district in the United States. My legislation would make that annual meeting permissive rather than mandatory.

I am introducing this legislation today at the request of U.S. District Judge James Nowlin—Austin—and U.S. District Judge Harry Lee Hudspeth—El Paso—who have recommended this change, in light of growing concerns over reducing budget deficits. Presently, the Federal Judiciary is required to cut some $42 million from its fiscal year 1986 budget—and probably more in fiscal year 1987. Judge Nowlin and Judge Hudspeth advise me that one way to eliminate costs, in the Federal Judiciary budget, is to allow each judicial circuit or district to determine, on an annual basis, whether a need exists to hold a judicial conference.

In addition to providing judges more time to fulfill responsibilities in their districts and divisions, the monetary returns which will accrue to the Federal judicial branch through the saving of travel, lodging, and meals expenses for judges, administrative offices, and judicial center personnel, who customarily attend these workshops will be significant.

Furthermore, in March of this year, the Judicial Conference and the Administrative Office of the U.S. Courts adopted a resolution recommending that the annual Judicial Conference be made optional rather than mandatory. I urge my colleagues to join me in cosponsoring this cost-saving bill.●

By Mr. HATCH:

S.J. Res. 339. Joint resolution to designate the week of November 30, 1986, through December 6, 1986, as "National Home Care Week," to the Committee on the Judiciary.

NATIONAL HOME CARE WEEK

Mr. HATCH. Mr. President, I solicit the support of my colleagues for a resolution I am reintroducing today, "National Home Care Week." This would be the sixth year that Americans would be devoting a week to this cause.

Our country is now facing a crisis of major proportions, due to the steadily growing population of older Americans in need of long-term health care. Back in 1900, 1 in every 25 Americans was 65 years or over. Today, the proportion is 1 in 10. By the turn of the century, in the year 2000, it promises to be 1 in 8.

Meanwhile, it is becoming more evident every day that our Nation cannot depend alone on nursing homes and institutionalized hospital care. To provide care for our elderly and infirm friends and family members, new and innovative arrangements are being devised. All of these are in one way or another based on the concept of home and community based health care.

Home health care organizations and programs—proprietary and nonprofit, freestanding, associated with nursing homes, and hospital-based have shown that they can provide quality, cost-effective care. Most important of all, they help older people remain in their own homes or apartments, where they often desperately wish to stay.

"National Home Care Week" will honor home health organizations and the professionals who provide this most vital service. It is especially appropriate during the months of November and December when we honor the family and its traditions, that we highlight the work of those who help our growing population of senior citizens preserve their home lives and independence.

I'd like to urge my distinguished colleagues to join me in sponsoring this bill, and expeditiously approving it when it comes before the Senate for consideration.

ADDITIONAL COSPONSORS

S. 951

At the request of Mr. GORTON, the names of the Senator from Ohio [Mr. GLENN], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Illinois [Mr. DIXON] were added as cosponsors of S. 951, a bill to amend the Fair Debt Collection Practices Act to provide that any attorney who collects debts on behalf of a client shall be subject to the provisions of such act.

S. 1090

At the request of Mr. HELMS, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1090, a bill to amend section 1464 of title 18, United States Code, relating to broadcasting obscene language, and for other purposes.

S. 1121

At the request of Mr. ANDREWS, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1121, a bill to amend the United States Grain Standards Act to encourage foreign agricultural trade by improving the quality of grain shipped from U.S. export elevator facilities.

S. 1654

At the request of Mr. STEVENS, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1654, a bill to amend title 18, United States Code, to provide for criminal forfeiture of proceeds derived from espionage activities and rewards for informants providing information leading to arrests in espionage cases.

S. 1901

At the request of Mr. ROTH, the name of the Senator from New York [Mr. MOYNIHAN] was added as cosponsor of S. 1901, a bill to amend the Foreign Missions Act regarding the treatment of certain Communist countries, and for other purposes.

S. 1917

At the request of Mr. BRADLEY, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 1917, a bill to amend the Foreign Assistance Act of 1961 to provide assistance to promote immuni-

zation and oral rehydration, and for other purposes.

S. 1937

At the request of Mr. STEVENS, the names of the Senator from Minnesota [Mr. DURENBERGER], the Senator from Oregon [Mr. HATFIELD], the Senator from Arizona [Mr. GOLDWATER], the Senator from Wyoming [Mr. SIMPSON], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 1937, an original bill to restrict smoking to designated areas in all U.S. Government buildings.

S. 2081

At the request of Mr. STAFFORD, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 2081, a bill to reauthorize the Head Start Act, the Low-Income Home Energy Assistance Act of 1981, the Community Services Block Grant Act, for deferred cost care programs, and for other purposes.

S. 2088

At the request of Mr. HELMS, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2088, a bill to amend the Internal Revenue Code of 1954 to deny a taxpayer's personal exemption deduction for a child who lives temporarily after an abortion, and for other purposes.

S. 2090

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2090, a bill to provide that the Internal Revenue Service may not before July 1, 1987, enforce its regulations relating to the tax treatment of the personal use of vehicles, and for other purposes.

S. 2203

At the request of Mr. STAFFORD, the name of the Senator from Connecticut [Mr. WEICKER] was added as a cosponsor of S. 2203, a bill to establish a program to reduce acid deposition and for other purposes.

S. 2209

At the request of Mr. DOLE, the name of Senator from Mississippi [Mr. STENNIS] 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.

S. 2253

At the request of Mr. HEINZ, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 2253, a bill to amend the Balanced Budget and Emergency Deficit Act of 1985 to exempt certain railroad retirement benefits from sequestration or reduction under an order issued by the President under section 252 of such act.

S. 2270

At the request of Mr. SIMON, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 2270, a bill to amend the Immigration and Nationality Act to deter immigration-related marriage fraud and other immigration fraud.

S. 2295

At the request of Mr. GOLDWATER, the names of the Senator from West Virginia [Mr. BYRD], the Senator from Texas [Mr. BENTSEN], and the Senator from Connecticut [Mr. DODD] were added as cosponsors 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. 2303

At the request of Mr. HATCH, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from North Dakota [Mr. BURDICK], the Senator from Alabama [Mr. DENTON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Florida [Mrs. HAWKINS], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Massachusetts [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Idaho [Mr. SYMMS], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of S. 2303, a bill to designate September 17 of every year as "Constitution Day" and to establish such day as a legal holiday with certain limitations.

S. 2305

At the request of Mr. KENNEDY, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 2305, a bill to amend title IV of the Public Health Service Act to require the Director of the National Cancer Institute to make grants and enter into contracts to support research on adoptive immunotherapy for cancer.

S. 2308

At the request of Mr. LAUTENBERG, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Tennessee [Mr. GORE], the Senator from Connecticut [Mr. DODD], the Senator from Maine [Mr. MITCHELL], the Senator from Ohio [Mr. METZENBAUM], the Senator from Massachusetts [Mr. KERRY], the Senator from California [Mr. WILSON], the Senator from Oklahoma [Mr. NICKLES], the Senator from Vermont [Mr. LEAHY], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 2308, a bill to authorize the President of the United States to award congressional gold medals to Anatoly and Avital Shcharansky in recognition of their dedication to human rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals.

S. 2333

At the request of Mr. DURENBERGER, the name of the Senator from Mississippi [Mr. STENNIS] was added as a cosponsor of 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.

S. 2343

At the request of Mr. DURENBERGER, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2343, a bill to authorize the provision of foreign assistance for agricultural activities in Nicaragua.

S. 2345

At the request of Mr. KENNEDY, the names of the Senator from Hawaii [Mr. INOUYE], and the Senator from Maryland [Mr. SARBANES] were added as cosponsors of S. 2345, a bill to improve counseling, education, and services relating to acquired immune deficiency syndrome.

S. 2353

At the request of Mr. CHILES, the names of the Senator from Nebraska [Mr. ZORINSKY], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 2353, a bill to direct the Attorney General to develop a model statute for States to prohibit the establishment and use of free base houses.

S. 2359

At the request of Mr. PRESSLER, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2359, a bill to amend title 38, United States Code, to establish a Veterans' Administration Readjustment Counseling Professional Fellowship Program.

S. 2398

At the request of Mr. ROTH, the name of the Senator from Florida [Mrs. HAWKINS] was added as a cosponsor of S. 2398, a bill to amend title 18 of the United States Code to ban the production and use of advertisements for child pornography or solicitations for child pornography, and for other purposes.

SENATE JOINT RESOLUTION 290

At the request of Mr. DECONCINI, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of Senate Joint Resolution 290, a joint resolution to designate July 4, 1986, as "National Immigrants Day."

SENATE JOINT RESOLUTION 305

At the request of Mr. SIMON, the names of the Senator from California [Mr. CRANSTON], the Senator from Oklahoma [Mr. BOREN], and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponors of Senate Joint Resolution 305, a joint resolution to designate the week of April 27, 1986, through May 3, 1986, as "National Arts in the Schools Week."

SENATE JOINT RESOLUTION 306

At the request of Mr. HATCH, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution to designate the week beginning November 23, 1986, as "National Adoption Week."

SENATE JOINT RESOLUTION 316

At the request of Mr. CRANSTON, the names of the Senator from Maine [Mr. COHEN] and the Senator from New Hampshire [Mr. RUDMAN] were added as cosponsors of Senate Joint Resolution 316, a joint resolution prohibiting the sale to Saudi Arabia of certain defense articles and related defense services.

SENATE JOINT RESOLUTION 335

At the request of Mr. CHILES, the names of the Senator from North Dakota [Mr. ANDREWS], the Senator from Texas [Mr. BENTSEN], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from California [Mr. WILSON], and the Senator from Nebraska [Mr. ZORINSKY] were added as cosponsors of Senate Joint Resolution 335, a joint resolution to designate May 8, 1986, as "Naval Aviation Day."

SENATE CONCURRENT RESOLUTION 117

At the request of Mr. SIMON, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of Senate Concurrent Resolution 117, a concurrent resolution expressing the sense of the Congress in support of RIAS, the radio in the American Sector of Berlin.

SENATE RESOLUTION 381

At the request of Mr. DECONCINI, the names of the Senator from Idaho [Mr. SYMMS], the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Resolution 381, a resolution expressing the sense of the Senate with respect to United States corporations doing business in Angola.

SENATE RESOLUTION 394

At the request of Mr. SIMON, the names of the Senator from Michigan [Mr. LEVIN], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Colorado [Mr. HART], the Senator from Ohio [Mr. METZENBAUM], the Senator from Texas [Mr. BENTSEN], the Senator from South Dakota [Mr. ABDNOR], the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from Tennessee [Mr. GORE], the Senator from Michigan [Mr. RIEGLE], the Senator from Maryland [Mr. SARBANES], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of Senate Resolution 394, a resolution expressing the sense of the Senate regarding the shipment to Poland of dried milk to replace milk contaminated as a result of the nuclear disaster in the Soviet Union.

AMENDMENT NO. 1729

At the request of Mr. DOMENICI, the names of the Senator from Utah [Mr. GARN] and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of amendment No. 1729 intended to be proposed to S. 1004, a bill to authorize and direct the Secretary of Energy to establish a program to provide for reclamation and other remedial actions with respect to mill tailings at active uranium and thorium processing sites.

SENATE RESOLUTION 395—WITH RESPECT TO THE RETENTION OF STATE AND LOCAL TAXES

Mr. CHILES (for himself, Mr. MOYNIHAN, Mr. DURENBERGER, Mr. HECHT, Mr. ROCKEFELLER, Mr. WEICKER, Mr. PRESSLER, Mr. BINGAMAN, Mr. GORTON, Mr. INOUYE, and Mr. DODD) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 395

Whereas State and local taxes have been deductible in computing the Federal income tax since its inception in 1861;

Whereas State governments have in place tax structures to meet the particular economic needs of the people in those States;

Whereas eliminating the State and local tax deduction would impose an additional tax burden on millions, and, therefore, jeopardize the ability of States to raise revenues for traditional government functions;

Whereas there is no sound economic rationale for eliminating the preferential treatment of one type of State or local tax over another in the Federal tax code;

Whereas eliminating the deductibility for certain State taxes while retaining it for others cannot be explained in the context of tax reform;

Whereas the State in which an individual resides should not alter the impact of such individual's State tax deductions for Federal tax purposes;

Whereas eliminating certain State and local tax deductibility could prejudice the choice of revenue measures by State governments; and

Whereas sales and property taxes are used by some State governments as general purpose taxes, the same as income taxes are used in other States: Now, therefore, be it

Resolved, That it is the sense of the Senate that any Federal tax reform legislation should—

(1) treat all State and local income, sales, and property taxes equally, and

(2) not repeal their deductible status for Federal income taxes.

● Mr. CHILES. Mr. President, now that the Senate has adopted a budget that takes a major slice out of the Federal deficit, we can turn our attention to tax reform. But we will have to be careful that tax reform does not become revenue roulette with the barrel pointed at growth States like Florida.

I am submitting a resolution today opposing elimination of the deductibility of State sales taxes.

Florida is among the fastest growing States in the Nation. We are a magnet to tourists from all around the country, a haven for the retired, and the State of opportunity for the ambitious. Every year, Florida attracts roughly 300,000 new residents, and entertains some 40 million visitors.

To provide for both guests and residents, our State levies a sales tax. We use those funds to improve our educational system, strengthen law enforcement, and maintain and expand our public infrastructure network. Those funds also help provide the services and facilities demanded by our visitors. In fact, in Florida, more than 50 percent of our revenues are collected from the sales tax.

There are countless ways to achieve real tax reform. But a tax package that strikes at the economic heart of States like Florida would be a mistake.

Terminating the deductibility of the State sales tax would cost the average Floridian a tax deduction of more than $250 a year. That is a direct loss to each Florida taxpayer. But there would also be severe economic costs to the State, as it attempts to maintain its revenue base in the face of Federal tax policy that unfairly dictates State tax policy. Florida seeks no special advantage. The advantages we have are in large part the product of our own devices. We have instituted a sales tax. Other States have an income tax. In each case, those taxes are deductible now from the Federal income tax. This has been the policy of the Federal Government since the inception of the Federal income tax. And it is inappropriate for Congress now to decide the preferable tax structure for State governments.

Florida has worked hard to win its place in the forefront of State economic development. We make a sizable contribution to the overall wealth of the Nation. Each year, Florida citizens and Florida businesses invest billions of tax dollars in the American economy. We have weathered gasoline shortages, recessions, and weather disasters on our coastlines and farmlands. Perhaps our story is not unique. But it is the envy of much of the Nation.

To alter the work we have done with an eraser in Washington is not acceptable. So the resolution I submit today is done in the name of fairness. Florida is a State of competitors. All we ask is that the competition not be rigged by an unwitting change in the Federal Tax Code.●

● Mr. GORTON. Mr. President, I rise today in support of the resolution which has been submitted by my distinguished colleague, the senior Senator from Florida. This resolution expresses the sense of the Senate that State and local taxes should remain deductible in tax reform, and more importantly that one type of State and local tax should not be treated differently than another. This resolution is vital to all State and local governments in this country, and I would like to thank the Senator for offering it at this time.

One of the most controversial proposed tax reforms is the partial or total repeal of the deductibility of State and local taxes. In recent weeks we have seen recurrent reports indicating that the Finance Committee might consider a partial repeal of the deduction for State and local tax payments—preserving the deductibility of income taxes, while eliminating it for sales taxes.

This Senator, as a representative of a State that raises a substantial portion of its tax revenues through the sales tax, strongly opposes the notion of repealing the deductibility of one type of State tax while retaining it for another. The citizens of the State of Washington, along with those of a number of other States, have indicated their preferred means of taxation. They would be forced, for all practical purposes, to convert to a different type of tax structure because of arbitary and unjustifiable changes in the Federal Tax Code. This is unfair, and flies in the face of tax reform.

I support the resolution that my distinguished colleague has submitted, not because I wholeheartedly oppose the repeal of the deductibility of State and local taxes, but specifically because of the unfairness and capriciousness of repealing the deduction of one form of State and local tax and not another. I would as seriously consider the partial repeal as I would full repeal, if partial repeal was constructed so as to cut across all sorts of State and local taxation.

I would urge my colleagues to support this resolution, and hope that the tax bill that is finally passed by this body will, in fact, treat all types of State and local taxes fairly and similarly.●

SENATE RESOLUTION 396—HONORING THE STEGER INTERNATIONAL POLAR EXPEDITION

Mr. DURENBERGER submitted the following resolution; which was considered and agreed to:

S. RES. 396

Whereas the Steger International Polar Expedition, headed by Will Steger of Ely, Minnesota; including Minnesotans Paul Schurke, Ann Bancroft, and Jim Gasperini as well as Geoff Carroll of Alaska, Robert Mantell of Vermont, Robert McKerrow of New Zealand, and Canadians Richard Weber, and Brent Boddy, reached the North Pole on May 2;

Whereas the Steger International Polar Expedition reached the North Pole by skis and dogsled, becoming the first Polar dogsled expedition since Admiral Peary in 1909 and the first expedition in history to reach the Pole without outside support, proving that the elements can be conquered through human power and perseverance;

Whereas in conquering the white unknown of the Arctic, the Steger International Polar Expedition embodied the rugged individualism and courage that enabled our forefathers to defy danger and death to explore and settle our frontiers;

Whereas Ann Bancroft became the first woman ever to reach the North Pole, providing inspiration and encouragement to many generations of women to come;

Whereas the Steger International Polar Expedition began with a dream and garnered the support of all the people of Minnesota and the Nation; Therefore be it

Resolved, it is the Sense of the Senate that the Steger International Polar Expedition be commended as the first unsupported dogsled expedition to reach the North Pole, for sending the first woman to the Pole and for proving that with faith, hope, and perseverance we can conquer any obstacle.

AMENDMENTS SUBMITTED

UNIFORM PRODUCT LIABILITY LAW

KASSEBAUM AMENDMENT NO. 1823

(Ordered referred to the Committee on Commerce, Science, and Transportation.)

Mrs. KASSEBAUM submitted an amendment intended to be proposed by her to the bill (S. 100) to regulate interstate commerce by providing for a uniform product liability law, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE II—GENERAL AVIATION ACCIDENTS

SHORT TITLE

SEC. 201. This title may be cited as the "General Aviation Accident Liability Standards Act of 1986".

FINDINGS AND PURPOSE

SEC. 202. (a) The Congress finds that—

(1) transportation by air of passengers continues to comprise an increasingly important component of the Nation's overall transportation system;

(2) although the incidence of injuries to passengers in general aviation accidents has decreased, the number of general aviation accident liability claims against general aviation aircraft manufacturers and the amount of damages sought in these claims is increasing at disproportionate rates, beyond any relationship to the quality of the aircraft manufactured and in use;

(3) the current system for determining liability and damages for compensating individuals injured in general aviation accidents is inadequate;

(4) competent general aviation manufacturers and component part manufacturers are ceasing or limiting production of general aviation aircraft or some models of these aircraft because of the increasing costs and unavailability of product liability insurance;

(5) the increase in the number of liability claims and the size of awards and settlements, and the excessive time and expense devoted to the resolution of such claims, impose a substantial economic burden on general aviation manufacturers and their dealers;

(6) the Federal Government has an interest in the general aviation accident liability system because the Federal Government has established a comprehensive system for regulating general aviation, including—

(A) establishing standards for design, construction, and certification of general aviation aircraft,

(B) establishing standards for maintenance of aircraft, licensing of repair facilities, and licensing of persons who may perform or approve maintenance, repairs, and inspection,

(C) establishing standards for training and licensing of pilots,

(D) establishing a comprehensive air control system,

(E) conducting investigations to determine the probable cause of aviation accidents and prevent future accidents, and

(F) conducting other activities necessary to assure a safe air transportation system,

and this Federal system is the exclusive legal authority for regulating aviation operations and safety;

(7) it is in the national interest to reduce unnecessary expenditures related to general aviation accident liability claims while providing more rapid and more efficient compensation for individuals harmed in general aviation accidents; and

(8) Federal action to reform the general aviation accident liability system will result in—

(A) the maintenance of airworthy general aviation aircraft; and

(B) a more rational general aviation accident liability system.

(b) It is the purpose of this title to establish standards for determining liability for harm arising out of general aviation accidents.

DEFINITIONS

SEC. 203. As used in this title, the term—

(1) "Administrator" means the Administrator of the Federal Aviation Administration;

(2) "claimant" means any person who brings a general aviation accident liability action subject to this title, and any person on whose behalf such an action is brought, including—

(A) the claimant's decedent; and

(B) the claimant's parent or guardian, if the action is brought through or on behalf of a minor or incompetent;

(3) "general aviation accident" means any accident which arises out of the operation of any general aviation aircraft and which results in harm;

(4) "general aviation aircraft" means any aircraft for which a type certificate and an airworthiness certificate have been issued by the Administrator under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.), which, at the time such certificates were originally issued, had—

(A) a maximum seating capacity of fewer than 20 passengers, and which is not engaged in scheduled passenger carrying operations as defined in regulations issued under the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.); and

(B) a maximum seating capacity of fewer than 6 passengers;

(5) "general aviation manufacturer" means—

(A) the builder or manufacturer of the airframe of a general aviation aircraft;

(B) the manufacturer of the engine of a general aviation aircraft; and

(C) the manufacturer of any system, component, subassembly, or other part of a general aviation aircraft;

(6) "harm" means—

(A) property damage or bodily injury sustained by a person;

(B) death resulting from such bodily injury;

(C) pain and suffering which is caused by such bodily injury; and

(D) emotional harm (including bereavement and loss of affection, care, or society) which is caused by such bodily injury;

(7) "product" means a general aviation aircraft and any system, component, subassembly, or other part of a general aviation aircraft; and

(8) "property damage" means physical injury to tangible property, including loss of use of tangible property.

PREEMPTION

SEC. 204. (a) This title supersedes any State law regarding recovery, under any legal theory, for harm arising out of a general aviation accident, to the extent that this title establishes a rule of law or procedure applicable to the claim.

(b) Nothing in this title shall be construed to supersede or to waive or affect any defense of sovereign immunity asserted by the United States or any State.

(c) No right of action for harm exists under this title if that right would be inconsistent with the provisions of any applicable workers' compensation law.

UNIFORM STANDARDS OF LIABILITY FOR GENERAL AVIATION ACCIDENTS

SEC. 205. (a) Any person claiming damages for harm arising out of a general aviation accident may bring an action against a party and may recover damages from that party, if that party was negligent and such negligence is a proximate cause of the claimant's harm.

(b)(1) Any person claiming damages for harm arising out of a general aviation accident may bring an action against a general aviation manufacturer of a product and may recover damages from that general aviation manufacturer if—

(A) the product, when it left the control of the manufacturer, was in a defective condition unreasonably dangerous for its intended purpose, according to engineering and manufacturing practices which were reasonably feasible in light of existing technology—

(i) on the date on which the Administrator issued a type certificate, in the case of an alleged design defect; or

(ii) on the date of manufacture, in the case of an alleged manufacturing defect;

(B) the defective condition is a proximate cause of the claimant's harm;

(C) the defective condition would not have been corrected by action described in an airworthiness directive issued by the Administrator or a service bulletin issued by the manufacturer of the product, if such directive or service bulletin was issued at a reasonable time before the date of the accident; and

(D) the general aviation aircraft was being used at the time of the accident for a purpose and in a manner for which it was designed and manufactured.

(2) Any person claiming damages for harm arising out of a general aviation accident may bring an action against a general aviation manufacturer of a product and may recover damages from that general aviation manufacturer if—

(A) at the time the product left the control of the manufacturer, the manufacturer—

(i) knew, or in the exercise of reasonable care should have known, about a danger connected with the product that caused the claimant's harm; and

(ii) failed to provide the warnings or instructions that a person exercising reasonable care would have provided with respect to the danger which caused the harm alleged by the claimant, unless those warnings or instructions, if provided, would not have materially affected the conduct of the user of the product; or

(B) after the product left the control of the general aviation manufacturer, the manufacturer—

(i) knew, or in the exercise of reasonable care should have known, about the danger which caused the claimant's harm; and

(ii) failed to take reasonable steps to provide warnings or instructions, after the manufacture of the product, which would have been provided by a person exercising reasonable care, unless those warnings or instructions, if provided, would not have materially affected the conduct of the product user;

and the failure to provide warnings or instructions described in subparagraph (A) or (B) of this paragraph is a proximate cause of the claimant's harm.

(3) Any person claiming damages for harm arising out of a general aviation accident may bring an action against a general aviation manufacturer of a product and may recover damages from that general aviation manufacturer if—

(A) the manufacturer made an express warranty with respect to the product;

(B) the warranty relates to that aspect of the product which caused the harm;

(C) the product failed to conform to the warranty; and

(D) the failure of the product to conform to the warranty is a proximate cause of the claimant's harm.

(c) In an action governed by subsection (b) of this section, when that aspect of a general aviation aircraft which caused the harm involved was, at the time of its manufacture, in compliance in all material respects with standards, conditions, or specifications established, adopted, or approved by the Federal Aviation Administration, the general aviation manufacturer shall not be liable unless the claimant establishes by a preponderance of the evidence that a person exercising reasonable care could and would have taken additional steps to reduce the risk of harm resulting from that aspect of the aircraft, and that such manufacturer did not take such steps.

(d) A certification, regulation or any criteria made or established by the Federal Aviation Administration regarding whether a model of general aviation aircraft is airworthy under section 603 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1423) is not subject to review *de novo* by the trier of fact in any action for harm arising out of a general aviation accident.

COMPARATIVE RESPONSIBILITY

SEC. 206. (a) All actions for harm arising out of a general aviation accident shall be governed by the principles of comparative responsibility. Comparative responsibility attributed to the claimant's conduct shall not bar recovery in an action under this title, but shall reduce any damages awarded to the claimant in an amount proportionate to the responsibility of the claimant. The trier of fact shall determine comparative responsibility by making findings indicating the percentage of total responsibility for the claimant's harm attributable to the claimant, each defendant, each third-party defendant, and any other person not a party to the action.

(b) Except as provided in subsection (c) of this section, a defendant is severally but not jointly liable in any action for harm arising out of a general aviation accident, and the liability of any defendant in any such action shall be determined on the basis of that defendant's proportionate share of responsibility for the claimant's harm.

(c) In any action for harm arising out of a general aviation accident—

(1) a general aviation manufacturer who is the builder or manufacturer of the airframe of the general aviation aircraft involved is jointly and severally liable for harm caused by a defective system, component, subassembly, or other part of that aircraft that the manufacturer installed or certified as part of the original type design for that aircraft; and

(2) a general aviation manufacturer who is the manufacturer of a system or component of the general aviation aircraft involved is jointly and severally liable for damages caused by a defective subassembly or other part of that system or component.

(d) A general aviation manufacturer and any other person jointly liable under subsection (c) of this section shall have the right to bring an action for indemnity or contribution against any person with whom they are jointly liable under subsection (c) of this section.

TIME LIMITATION ON LIABILITY

SEC. 207. Except as provided in subsection (b) of this section, no civil action for harm arising out of a general aviation accident which is brought against a general aviation manufacturer may be brought for harm which is alleged to have been caused by an aircraft or a system, component, subassembly, or other part of an aircraft and which occurs more than—

(1) 12 years from—

(A) the date of delivery of the aircraft to its first purchaser or lessee, if delivered directly from the manufacturer; or

(B) the date of first delivery of the aircraft to a person engaged in the business of selling or leasing such an aircraft; or

(2) with respect to any system, component, subassembly, or other part which replaced another product in, or which was

added to, the aircraft, and which is alleged to have caused the claimant's harm, 12 years from the date of the replacement or addition.

(b) Subsection (a) of this section does not apply in the case of harm to a claimant which occurs after the period set forth in subsection (a) of this section if the general aviation manufacturer or the seller of the product that caused the claimant's harm gave an express written warranty that the product would be suitable, for the purpose for which it was intended, for a longer period of time.

(c) Nothing in this section shall be construed to affect a person's duty to provide, after the sale or lease of an aircraft, to aircraft owners, and to repair facilities to which a license or certificate to perform repairs has been issued by the Administrator, additional or modified warnings or instructions regarding the use or maintenance of that aircraft or any system, component, or other part of that aircraft.

SUBSEQUENT REMEDIAL MEASURES

SEC. 208. In any general aviation accident liability action governed by this title, evidence of any measure taken after an event which, if taken previously, would have made the event less likely to occur is not admissible to prove liability. Such evidence is admissible to the extent permitted under Rule 407 of the Federal Rules of Evidence.

ADMISSIBILITY OF CERTAIN EVIDENCE

SEC. 209. In an action governed by this title, evidence of Federal, State, or local income tax liability or any social security or other payroll tax liability attributable to past or future earnings, support, or profits alleged to have been lost or diminished because of harm arising out of a general aviation accident is admissible regarding proof of the claimant's harm.

PUNITIVE DAMAGES

SEC. 210. (a) Punitive damages may be awarded in an action under this title for harm arising out of a general aviation accident only if the claimant establishes by clear and convincing evidence that the harm suffered was the direct result of conduct manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by use of the general aviation aircraft involved.

(b) Evidence regarding the financial worth of a defendant or the defendant's profits or any other evidence relating solely to a claim for punitive damages under this title is not admissible unless the claimant establishes, before any such evidence is offered, that the claimant can present evidence that will establish prima facie proof of conduct manifesting a conscious, flagrant indifference to the safety of those persons who might be harmed by use of the general aviation aircraft involved.

TIME LIMITATION ON BRINGING ACTIONS

SEC. 211. Any action for harm arising out of a general aviation accident shall be barred, notwithstanding any State law, unless—

(1) the complaint is filed within 2 years after the date on which the accident occurred which caused the claimant's harm; and

(2) the summons and complaint are properly served upon the defendant within 120 days after the filing of the complaint, unless the party on whose behalf such service is required can show good cause why such service was not made within such 120-day period. Paragraph (2) of this subsection shall not apply to service of process in a foreign country pursuant to Rule 4(i) of the Federal Rules of Civil Procedure or any similar State law.

JURISDICTION

SEC. 212. (a) The district courts, concurrently with the State courts, shall have original jurisdiction, without regard to the amount in controversy, in all civil actions for harm arising out of a general aviation accident and in all actions for indemnity or contribution described in section 206(d) of this title.

(b) A civil action which is brought in a State court may be removed to the district court for the district embracing the place where the action is pending, without the consent of any other party and without regard to the amount in controversy, by any defendant against whom a claim in the action is asserted for harm arising out of a general aviation accident.

(c) In any case commenced in or removed to a district court under subsection (a) or (b) of this section, the court shall have the jurisdiction to determine all claims under State law that arise out of the same general aviation accident, if a substantial question of fact is common to the claims under State law and to the Federal claim, defense, or counterclaim.

(d) (1) A civil action in which the district courts have jurisdiction under subsection (a) of this section may be brought only in a district in which—

(A) the accident giving rise to the claim occurred; or

(B) any plaintiff or defendant resides, if all reside in the same State.

(2) In an action pending in a district court under paragraph (1) of this subsection, a district court may, on motion of any party or its own motion, transfer the action to any other district for the convenience of parties and witnesses in the interest of justice.

(3) For purpose of this subsection, a corporation shall be considered to be a resident of any State in which it is incorporated or licensed to do business or is doing business.

SEVERABILITY

SEC. 213. If any provision of this title or the application of the provision to any person or circumstance is held invalid, the remainder of this title and the application of the provision to any other person or circumstance shall not be affected by that invalidation.

EFFECTIVE DATE

SEC. 214. (a) This title shall apply to any civil action for harm arising out of a general aviation accident and which is filed on or after the date which is 180 days before the date of enactment of this Act.

(b) If an action subject to the amendments made by this title is filed before the date of anactment of this Act, or within 180 days after such date of enactment, liberal leave shall be given to a party to amend any pleading, motion, statement of jurisdiction or venue, or other matter to conform to the provisions of this title.

Mrs. KASSEBAUM. Mr. President, I am today introducing legislation aimed at the general aviation product liability crisis.

While there are many areas of the economy today saddled with exorbitant liability costs, general aviation is an industry among those hardest hit.

In 1979, over 17,000 general aviation aircraft were sold in the United States. This year, deliveries will probably fall below 2,000. Airframe builders' product liability charges have increased an average of 500 percent, to $135 million, since 1981, and are continuing to rise sharply. Today's buyer is paying over $70,000 per airplane in insurance costs alone. Insurance premiums alone now exceed labor costs. Yet, only a small percentage of these vast sums ever reach those injured in an accident.

This situation threatens not only the manufacturers but their employees, customers, and our international competitiveness. The light single-engine market is almost nonexistent at this time. Employment over the past 3 years in the general aviation industry has been reduced 50 percent, and layoffs continue. Innovation has become in many cases economically impossible—the annual insurance and litigation expenses exceed the amounts available for product design and development. Many consumers have been priced out of the market at current costs.

Manufacturers are not trying to avoid liability for their products. However, uniform product liability standards are appropriate and needed in this industry.

This legislation gives the Federal courts jurisdiction of all general aviation cases on the basis that the industry is federally regulated at all levels. All such cases would be subject to Federal law, whether filed in a State or Federal court.

Manufacturers can be held liable for equipment which is in a defective condition "unreasonably dangerous for its intended purpose," as well as for negligence. They can also be held liable for failure to supply warnings against dangers which are known or should have been known to the manufacturers. Products will be judged in light of the existing technology at the time they were issued as type certificate, in the case of a design defect, and on the date of manufacture, in the case of a manufacturing defect.

Joint and several liability is eliminated except that manufacturers of airframes are still jointly and severally liable with manufacturers of defective systems, components, or subassemblies.

The bill adopts a comparative negligence test. It establishes a 12-year statute of repose and a 2-year statute of limitations.

Subsequent remedial measures undertaken by a manufacturer after an accident and in order to prevent future accidents cannot be admitted as evidence of the manufacturer's liability.

Punitive damages may be awarded if the claimant can show that the harm suffered was the direct result of conduct manifesting a conscious, flagrant indifference to the safety of others.

These are the main provisions of the legislation which I am introducing today as an amendment to S. 100. It is fair and balanced legislation designed with the interests of both those who use and those who sell aircraft in mind. I look forward to working with my colleagues on these reforms which will benefit all.

SHIPMENT OF DRIED MILK TO POLAND

HELMS AMENDMENT NO. 1824

Mr. HELMS proposed an amendment to the resolution (S. Res. 394) expressing the sense of the Senate regarding the shipment to Poland of dried milk to replace milk contaminated as a result of the nuclear disaster in the Soviet Union; as follows:

On page 2, beginning on line 4, strike out "to the Government of Poland" and insert in lieu thereof "for distribution to the people of Poland through appropriate private, nonprofit voluntary agencies".

HELMS AMENDMENT NO. 1825

Mr. HELMS proposed an amendment to the preamble of the resolution (S. Res. 394), supra; as follows:

Amend the last paragraph of the preamble to read as follows:

"Whereas the Administration has provided humanitarian assistance, in the form of surplus dairy products, to the people of Poland and is planning to continue to provide such assistance during the current fiscal year:".

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. ROTH. Mr. President, the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold a hearing on the Department of Justice's handling of the Jackie Presser Ghost Workers Investigation.

The hearing will be held on Friday, May 9, 1986 at 9 a.m. in Senate Dirksen 342. For further information, please contact Daniel Rinzel or Howard Shapiro of the subcommittee staff at 224-3721.

COMMITTEE ON RULES AND ADMINISTRATION

Mr. MATHIAS. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 2:30 p.m., in SR-301, Russell Senate Office Building, on Thursday, May 8, 1986, to receive testimony on security for Capitol grounds and buildings, focusing on the Senate and House whips' Capitol-complex security enhancement proposal.

For further information regarding this hearing, please contact John Rixey of the Rules Committee staff at 224-6351.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ANDREWS. Mr. President, I would like to announce for the information of the public that the Select Committee on Indian Affairs will be holding a markup on Tuesday, May 13, 1986, in Senate Russell 428, at 10 a.m., on the following bills:

S. 2095, to reauthorize the Tribally Controlled Community College Act;

S. 2118, to provide for the distribution of funds to pay a judgment awarded the Sisseton-Wahpeton Tribe of Sioux Indians;

S. 2260, to settle certain claims arising out of activities on the Pine Ridge Indian Reservation;

S. 2243, to improve the health status of Native Hawaiians;

S. 1988, to establish a program for the prevention and control of diabetes among Native Americans;

S. 1991, to extend programs under the Native American Programs Act; and

S. 1622, to promote the development of Native American culture and art; and for other purposes.

The committee will also be holding an oversight hearing on Wednesday, May 21, 1986, in Senate Dirksen 538, at 10 a.m., on certain issues arising as a result of a decision of the 10th Circuit Court of Appeals in the case of the *Ute Tribe* v. *the State of Utah.*

Those wishing additional information should contact the committee at 224-2251.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Committee on Governmental Affairs will hold a hearing on two bills to upgrade financial management in the Federal Government, strengthen Federal management improvement leadership, and achieve substantial budgetary savings. These bills are: S. 2230, the Federal Management Reorganization Act of 1986; and S. 2142, the Loan Accounting Reform and Deficit Reduction Act.

S. 2230 outlines numerous reforms in financial management, strengthens the framework for making best use of computers in government, and establishes an Office of Federal Management to oversee needed improvements in Federal agencies.

S. 2142 requires any Federal agency which makes a direct loan after October 1, 1986, to submit to the Department of the Treasury the loan obligation and such information concerning the borrower as the Department needs in order to sell the obligation. The amount of any subsidy for such loan is to be treated in the budget as an outlay, thus reflecting the true cost of the direct loan programs.

The hearing will begin at 9:30 a.m. on Tuesday, May 13, 1986, in Senate Dirksen 342, and continue at 3 p.m. on Wednesday, May 14. For further information, please contact Robert Gilmour or Roger Sperry of the committee staff at 224-4751.

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 has scheduled a hearing on Tuesday, May 20, 1986, at 9 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC, to receive testimony on the following natural gas legislation: S. 1302, S. 1251, S. 2205, S. 2285, and S. 834.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510.

For additional information regarding this hearing, you may contact Debbi Rice or Howard Useem at (202) 224-2236.

SUBCOMMITTEE ON PUBLIC LANDS, RESERVED WATER AND RESOURCE CONSERVATION

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a hearing before the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources on Thursday, June 12, 1986, at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building, Washington, DC 20510. Testimony will be received on S. 2204, to amend the Land and Water Conservation Fund Act of 1965, as amended, to permit the use of park entrance, admission and recreation use fees for the operation of the National Park System, and for other purposes.

Those wishing to testify should contact the Subcommittee on Public Lands, Reserved Water and Resource Conservation of the Committee on Energy and Natural Resources, room SD-308, Dirksen Senate Office Building, Washington, DC 20510. Oral testimony may be limited to 5 minutes per witness. Written statements may be longer. Witnesses may be placed in panels, and are requested to submit 25 copies of their testimony 24 hours in advance of the hearing, and 50 copies on the day of the hearing.

For further information, please contact Patty Kennedy or Tony Bevinetto of the subcommittee staff at (202) 224-0613.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Tuesday, May 6, 1986, in order to markup H.R. 3838, the tax bill.

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

COMMITTEE ON THE JUDICIARY

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, May 6, 1986, in order to receive testimony concerning the nomination of Jefferson Sessions to be U.S. district judge for the southern district of Alabama.

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

COMMITTEE ON ARMED SERVICES

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, May 6, to conduct an informal meeting, in executive session, on the security issue of mutual concern with the German Bundestag.

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

SUBCOMMITTEE ON PREPAREDNESS

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Subcommittee on Preparedness of the Committee on Armed Services, be authorized to meet during the session of the Senate on Tuesday, May 6, 1986, in an open later to become closed session, in order to receive testimony on the national strategic stockpile, naval petroleum reserve, and to mark up S. 2102, the Strategic and Critical Materials Stockpiling Revision Act of 1986.

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

ADDITIONAL STATEMENTS

PENTAGON REORGANIZATION

● Mr. GOLDWATER. Mr. President, from time to time, I have inserted articles and short papers on defense organization into the CONGRESSIONAL RECORD. I hope this material will help Senators and their staffs prepare for the Senate's consideration of S. 2295, the Department of Defense Reorganization Act of 1986.

This historic legislation would change the organization and decision-making procedures of the Defense Department in order to better integrate the powerful capabilities of the four separate services. It was unanimously approved by the Armed Services Committee on March 6. I am pleased to report that, as of today, the following 24 Senators have joined Senator NUNN and me in sponsoring S. 2295: THURMOND, COHEN, QUAYLE, EAST, WILSON, GRAMM, ANDREWS, DURENBERGER, EVANS, HART, EXON, LEVIN, KENNEDY, BINGAMAN, DIXON, LEAHY, JOHNSTON, BOREN, ROCKEFELLER, EAGLETON, BUMPERS, CRANSTON, DECONCINI, and MITCHELL.

Mr. President, today I continue my practice of inserting defense organization material into the RECORD. The Heritage Foundation yesterday published an excellent analysis of the problems and proposals that have been addressed in the debate over defense reorganization. Entitled "A Solid Case for Pentagon Reorganization," the paper strongly supports the kinds of changes made by S. 2295. I should like to complement the author of the paper, Dr. Kim Holmes, and the Heritage Foundation for their contribution to a better understanding of this important issue.

Mr. President, I ask that the paper "A Solid Case for Pentagon Reorganization" be printed in the RECORD.

The paper follows:

A SOLID CASE FOR PENTAGON REORGANIZATION

(By Kim R. Holmes)

INTRODUCTION

When the Department of Defense was created in 1947, it had a budget of $56.6 billion and 2.4 million employees and military personnel. Since then, the budget has grown five-fold and personnel two-fold. Yet the Department's organization has remained fundamentally unaltered. A growing consensus of experts and policy makers now feel that the time for reorganizing the Pentagon at last has come. Taking the lead in calls for change is Ronald Reagan's Blue Ribbon Commission on Defesne Management, known as the Packard Commission after its chariman, David Packard. Its interim report this February stated: "There is a great need for improvement in the way we think through and tie together our security objectives, what we spend to achieve them, and what we decide to buy."[1] Legislation is pending in Congress to do just that. The task now is to decide how best to achieve effective military reform, or more precisely, how to reorganize the Pentagon in a manner consistent with the principles of good management and military effectiveness.[2]

The organization and structural weaknesses in the Department of Defense developed over a long period of time, and there are many of them. The Office of the Secretary of Defense (OSD), for example, lacks sufficient political authority to control the many divergent organizational forces inside the Pentagon. The Joint Chiefs of Staff (JCS) system, the nation's leading military committee, routinely seeks consensus of the three Services and thus is institutionally handicapped in offering the President objective and timely military advice. The so-called combatant commands, which cover forces dedicated to such diverse and broad military missions as the defense of the Pacific region or military airlift, are inadequately represented in the decision-making process. And the Defense Agencies, which were established to perform supply functions common to more than one military department, such as logistics, communications, and intelligence, are inadequately supervised, redundant, insufficiently responsive to their customers, including the combatant commands, and perform some functions that are only marginally important.

In view of this, Pentagon reorganization reforms should:

(1) Strengthen the political authority of the Secretary of Defense;

(2) Reduce excess personnel in the Defense Agencies and perhaps even the number of Agencies themselves;

(3) Enhance the role of the Chairman of the Joint Chiefs of Staff to reduce Service parochialism in strategic and operational planning and to make the JCS more accountable to the Secretary of Defense;

(4) Give the combatant commanders greater command authority and more influence on the structure of forces under their command;

(5) Minimize Service parochialism, streamline the Service staffs, and eliminate duplication in the bureaucratic functions of Military Departments;

(6) Improve the quality and management of joint officers.

These reforms will not eliminate all the Pentagon's organizational problems. But they will remove some obstacles to sound strategic planning and better coordinated military operations, and if the Pentagon's civilian and military leaders were willing, could pave the way for further reforms. The reforms will provide clearer policy guidance for the Services and will reduce the influence of Service parochialism on policy planning and allocation of resources without diminishing the invaluable technical and operational advice that only the Services can provide.

AN EVALUATION OF VARIOUS DEFENSE REORGANIZATION PROPOSALS

Office of the Secretary of Defense (OSD)

A serious obstacle to effective management of the Pentagon is the lack of power and influence in the Office of the Secretary of Defense.[3] While the Secretary has enormous legal power to manage and control the Pentagon bureaucracy, in reality he lacks sufficient political authority to control powerful internal and external organizational forces, such as the Joint Chiefs of Staff, the Military Departments (i.e., the Service Secretaries and Service Chief), and Congress, all of whom have agendas of their own.[4]

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[1] President's Blue Ribbon Commission on Defense Management, *An Interim Report to the President*, February 28, 1986, p. 5.

[2] The literature on defense organization reform is immense. The more prominent material includes Stuart M. Butler, Michael, Sanera, and W. Bruce Weinrod, eds., *Mandate for Leadership II: Continuing the Conservative Revolution* (Washington, D.C.: The Heritage Foundation, 1984), pp. 431-448; Theodore J. Crackel, *Reshaping the Joint Chiefs of Staff: A Roundtable of the Heritage Foundation Assessment Project* (Washington, D.C.: The Heritage Foundation, 1985); Archie D. Barrett, *Reappraising Defense Organization* (Washington, D.C.: National Defense University, 1983); Staff Report to the Committee on Armed Services United States Senate, *Defense Organization: The Need for Change*, (Washington, D.C.: Government Printing Office, October 16, 1985); Richard C. Steadman, *Report to the Secretary of Defense on the National Military Command Structure* (Washington, D.C.: Government Printing Office, 1978); William J. Lynn and Barry Blechman, *Toward a More Effective Defense: The Report of the CSIS Defense Organization Project* (Ballinger, 1985); William J. Lynn and Barry R. Posen, "The Case for JCS Reform," *International Security* Winter 1985/86, pp. 69-97; The Naval War College, *JCS Reform: Proceedings of the Conference*, Newport, Rhode Island, May 6-7, 1985; MacKubin Thomas Owens, "The Hollow Promise of JCS Reform," *International Security* Winter 1985-86, pp. 98-111.

[3] Barrett, *op. cit.*, 56-66, 191-238; Donald B. Rice, *Defense Resource Management Study, Final Report* (Washington, D.C.: Government Printing Office, 1979), pp. 5-34; and Senate Staff Report, *op. cit.*, pp. 49-137.

[4] *Mandate II, op. cit.*, pp. 433-34; Senate Staff Report, p. 629.

This weakness can be addressed in a number of ways.[5]

(1) *Reducing the number of officials reporting directly to the Secretary.*

At last count, 42 officials were reporting directly to Secretary of Defense Caspar Weinberger. Any student in Management 101 knows that this is far too many for him to oversee adequately. No chief executive, not even a super manager, can effectively supervise 42 principal assistants, who themselves oversee highly complex policy functions. Reducing the number of officials reporting directly to the Secretary would free the Secretary to concentrate primarily on major policy matters and would streamline the lines of authority inside OSD.

(2) *Eliminating statutory titles for most Assistant Secretaries.*

Proponents of this measure claim it will enhance the management flexibility of OSD by allowing the Secretary to organize OSD as he or she sees fit, to streamline OSD organization, and perhaps even to reduce the number of senior officials reporting directly to the Secretary. By and large these claims are valid. The law now requires that there be an Assistant Secretary for Health Affairs, another for Force Management and Personnel, and others for Reserves, command and control, and comptroller. The Secretary of Defense, however, should be permitted to assign the duties of his principal assistants as he wishes and as changing circumstances warrant.

(3) *Encouraging the Secretary of Defense to strengthen political control over OSD, the Joint Chiefs of Staff, and the Military Services.*

This proposal involves mainly a change in the way the Secretary of Defense relates to the Joint Chiefs of Staff and the Military Departments of the Services. Any measure to reduce the influence of the Services on the allocation of resources would enhance the real authority of OSD. By the same token, increasing the prestige and authority of the JCS Chairman could ameliorate Service parochialism. For this proposal to work would depend on whether the Secretary of Defense and the JCS Chairman cooperated closely. This can be guaranteed not by statutory reorganization, but by a tacit bureaucratic alliance between the Secretary and the Chairman to offset the influence of the Services in the Joint Chiefs of Staff and the Military Departments.

Some critics of military reform claim that strengthening the Office of the Secretary of Defense will centralize the OSD bureaucracy even more. But stronger authority is not the same as bureaucratic centralization. As defense organization expert Arch Barrett suggests, "The secretary/OSD must have unbounded power to give close scrutiny to areas of particular concern, but other activities should be delegated as much as possible."[6] Barrett believes it is possible, and indeed even desirable, for the Secretary to decentralize program management without diluting the central political authority of OSD.

Nor is it correct, as some critics suggest, to assume that strengthening the Secretary's authority inexorably leads to more micromanagement of the Services by OSD.[7] The Secretary can decide to reduce OSD's interference in the day-to-day military operations of the Services while simultaneously strengthening its hold over strategic planning and the allocation of resources.

(4) *Improving supervision and reducing personnel of Defense Agencies.*

At the Department of Defense, fifteen agencies perform the common supply or service functions required by the civilian and military leaders of the Pentagon. These include the Defense Contract Audit Agency, Defense Investigative Service, Defense Legal Services Agency, the Defense Security Assistance Agency, and many others.

Since 1958 thirteen Defense Agencies have been added to the Pentagon bureaucracy.[8] This proliferation has raised the question of whether all of them are needed. Is there really a pressing need, for example, for a separate Defense Legal Services Agency or a Defense Investigative Service?

There also is the problem of growing personnel. Since 1960 the Defense Agencies have added more than 65,000 employees.[9] Between 1980 and 1983 alone, the Defense Agencies added 5,075 new employees to the Pentagon's payroll.[10] At the very least, a cap should be put on the growth of Defense Agency personnel. In addition, the Pentagon should review its personnel requirements for the Defense Agencies, is very likely it will discover that significant reductions could be made without harming their basic functions.

Finally, because of their large number, the Defense Agencies are not adequately supervised or coordinated. Of the Secretary's 42 direct subordinates, 24 are senior OSD and Defense Agency officials. Supervision of the Defense Agencies can be improved by reducing the number of Defense Agency officials who report directly to the Secretary.

(5) *Consolidating the acquisition authority in an Under Secretary of Defense.*

The Packard Commission recommends creating a new Under Secretary of Defense for Acquisitions. This is to streamline the procurement process by consolidating responsibility in one authority, a new and powerful Under Secretary only one level below the Defense Secretary. A secondary aim is to reduce the influence of the individual Services on the weapons procurement process.

An Under Secretary of Defense for Acquisitions would give OSD greater leverage in forcing the Services to adopt budget priorities. This could, in turn, strengthen the hand of the Secretary of Defense in the entire programming and budgeting process.

Joints Chiefs of Staff

The Joint Chiefs of Staff system is the weak link in the chain of military planning and command. Because the Joint Chiefs wear two hats—serving not only as "joint" Chief but as the Chief of a parent Service—they lack the independent institutional basis for offering truly objective and timely "joint" military advice.[11] The JCS is in effect a committee of Service Chiefs representing relatively equal, independent and powerful bureaucratic interests—the Army, the Air Force, the Navy, and the Marines. There is no firm institutional basis for making "joint" or all-service decisions. In fact, the very institutional nature of the JCS requires that the Services reach the lowest common denominator of agreement between them.[12] The result is often a forced unanimity between the Services that glosses over disagreements and dilutes the quality of military advice.[13]

While the JCS system allows the Services to funnel their substantial technical expertise into the programming and budgeting process, it has the disadvantage, some critics charge, of allowing the Services too much influence on the outcome of that process. The consequence is patchwork strategic planning and programming for U.S. military forces. Because the JCS is essentially a captive of the Services, it lacks the requisite objectivity for providing unbiased military advice. Thus, instead of a coherent strategic framework governing the allocation of scarce resources, the Pentagon's civilian policy makers get JCS planning documents that are confused and even contradictory.

The lack of a strong civilian-military alliance between the Secretary of Defense and an independent JCS Chairman dilutes the authority of the President over defense policy. The JCS system deprives the Secretary of Defense, the President's principal defense executive, of the objective advice and information needed to maintain sufficient policy control over the Services. It hinders the capability of the Secretary and his principal military advisors to bring a comprehensive strategic military viewpoint to bear on the formulation of strategic planning and weapons development.

One reason the JCS system is weak is that the joint aspects of serving on the Joint Staff or on some other unified command staff are held in relatively low regard by the Services. Since promotions are controlled by the Services, joint officers typically feel that it is in their interest to reflect the views of their parent Service. The incentive structure of the promotion system thus reinforces Service parochialism.

The Joint Chiefs of Staff system can be improved by:

(1) *Making the Chairman of the Joint Chiefs of Staff the principal military advisor to the President.*

Under the current JCS system, all three Joint Chiefs as a unit serve as the principal military advisory body to the President and

[5] The Senate Armed Services Committee has approved legislation containing a number of OSD and other organization reform provisions discussed in this paper; see United States Senate Committee on Armed Services, Press Release: "Goldwater and Nunn Announce Committee Approval of Defense Reorganization Bill," March 6, 1986. The House passed a JCS reform bill (H.R. 2265) in 1985. A new House bill (H.R. 4370) contains provisions reorganizing the combatant commands, the Defense Agencies, the joint officer corps, and the Military Departments.

[6] Barrett, *op. cit.*, p. 222.

[7] Barrett, *op. cit.*, pp. 59, 61-2; see other OSD analyses in Paul R. Ignatius, Department of Defense Reorganization Study Project, *Department Headquarters Study. A Report to the Secretary of Defense.* 1 June 1978, pp. 5-72; and in Rice, *op. cit.*, pp. 5-94.

[8] Senate Staff Report, p. 56.

[9] *Ibid.*

[10] *Ibid.*, Table 3-2, p. 58.

[11] Senate Staff Report, pp. 166-171; Steadman, *Op. cit.*, p. 53.

[12] Senate Staff Report, pp. 173-74; Steadman, *Op. cit.*, p. 52.

[13] For example, President John F. Kennedy was "appalled" at the sketchy nature of the advice he received from the Joint Chiefs on military operations in Laos. And General Bruce Palmer, a former Army Vice Chief of Staff, observed that during the Vietnam War the Joint Chiefs consistently told the president they supported the air war, even though they disagreed privately among themselves. In both instances the Commander-in-Chief, the President, lacked crucial military advice that could have made a critical difference in the way the U.S. fought the war in Southest Asia. Speech by Senator Barry Goldwater, U.S. Senate, *Congressional Record—Senate,* October 3, 1985, S 12533. *Ibid.*, S 12534.

the Secretary of Defense. A proposal approved by the House of Representatives would make the Chairman alone the principal military advisor to the President. This would provide the President with more robust and objective military advice than he has been receiving.

The military Services predictably oppose this proposal, arguing that it would reduce the diversity of military advice the President receives. This concern is exaggerated. The law making the Chairman principal military advisor could include measures ensuring independent access of the individual Service Chiefs to the President, thus preserving the diversity of military advice. Civilian control over the military, meanwhile, would be strengthened because the Secretary of Defense would have less interference from the Services. Planning would be centralized in the more powerful Chairman, but this is precisely what is needed. The specialized military advice of the three Services, on the other hand, would be preserved.

It is irresponsible to suggest, as some critics of JCS reform do, that a stronger JCS Chairman will breed an "American Caesar" or American warload capable of overriding civilian control of the military.[14] Nor will a strengthened JCS Chairman lead to a Prussian-style general staff.[15] This would require giving the Chairman and joint officers far more authority and prestige than anyone has suggested.

It also is incorrect to suggest that the advantages of competition between the Services will be lost as a result of a strengthened Chairman. For one thing, the putative competition between the Services is submerged in the depths of JCS unanimity. For another, Service competition is most effective in developing new ideas at planning levels below the Joint Chiefs of Staff. And competition is best reserved for inputs not outputs. Once all the ideas have been collected by the Secretary of Defense and the JCS Chairman, clear choices can be made based on policy objectives and established priorities. The President, in any event, will receive competing views from other advisors, the National Security Council, member of Congress, and the Secretary of Defense.

Strengthening the Chairman will not overcentralize military planning or add new layers of bureaucracy.[16] The Service Chiefs could have independent access to the President, while the staff of the JCS could be transferred from the corporate JCS to the Chairman without adding new personnel. In any event, the major bureaucratic problem in the Pentagon is not centralization but competition between decentralized bureaucracies—the Office of the Secretary of Defense, JCS, the Services, and the Defense Agencies—which degrades the central authority of the Secretary of Defense.

(2) *Creating a subspecialty in the U.S. officer corps of service on joint staffs:*

Under the current system military officers from the individual Services are assigned temporarily to such joint duties as the Joint Staff of the Joint Chiefs of Staff or to the staff of the combatant commanders. They correctly view this as temporary duty so their primary loyalty remains with their Services. To create a new all-Service mentality among the officer corps, reformers propose establishing a joint subspecialty within the Services. An Army officer whose main specialty is in land warfare communications, for example, could acquire such a subspecialty in the communications requirements of the joint Army-Air Force AirLand Battle doctrine. To ensure that the careers of joint officers in their parent Service did not suffer, the military would have to give greater weight to joint service as a prerequisite for promotion. This need not lead automatically to a Prussion-style general staff. So long as individual joint subspecialists are not promoted faster than regular Service officers, the dangers of General Staff elitism can be avoided.

The JCS reform proposals are not perfect. There is no assurance, for instance, that a strengthened Chairman will be more energetic or take a broader view just because he is more independent of the Services and has his own staff. Nor is there a guarantee that the creation of joint subspecialties will not be circumvented by the Services. Moreover, unless the Secretary of Defense takes more control of the actual outputs of the programming and budgeting process, the strengthened JCS Chairman will not have the proper guidance to centralize military planning.

Unified and Specified Commands

Unified and specified commands (or combatant commands) control forces dedicated to broad military missions. The forces at such unified commands as the U.S. Atlantic Command at Norfolk, Virginia, or the U.S. Pacific Command at Camp H.M. Smith, Hawaii, are forces assigned from two or more Services. By contrast, specified commands, such as the Strategic Air Command headquartered at Offutt Air Force Base in Nebraska, consist of forces from a single Service dedicated to some highly specialized military mission such as strategic nuclear deterrence.

Six broad criticisms of the current combatant commands contend that:[17] (1) the chain of command from the Commander-in-Chief or "CINC" to the operational commanders below him is confused; (2) the command authority of the unified commanders over the Service component commands is too weak; (3) the unified commanders have practically no organizational authority over the allocation of resources to the forces under their command; (4) the command structure below the level of the unified commander and his staff is fragmented along Service lines; (5) operation plans for the unified commanders do not receive adequate review by the JCS and the Secretary of Defense; and (6) civilian leaders unnecessarily micromanage tactical operations of the unified commanders during crises.

The critical weakness of the combatant commands, however, may be their meager influence over the forces and weapons directly under them. For example, combatant commanders are dependent on the Service component commands of their Services for resources. Moreover, they must exercise operational command through the Service component commanders. As the Chairman's Special Study Group concluded in 1982: "Today, the CINCs are at best only superficially involved in many things critical to their commands." They play almost no role in the programming and budgeting process (though they recently were invited by the Secretary to participate occasionally in meetings of the Defense Resources Board) and have little influence in the JCS force allocation process.

Proposals to remedy combatant commands' weaknesses include:

(1) *Strengthening and expanding the authority of the combatant commanders to exercise full operational command over the forces assigned to their command.*

Under the present system the Service Chiefs interfere with the CINCs' command over military operations and dominate the process of resource allocation for forces assigned to the unified and specified commands.[18] Proponents of this proposal believe that strengthening and expanding the authority of combatant commanders over military operations, joint training, and administrative and support functions of the combatant commands would give the CINCs, who, after all, are held responsible for the successful conduct of military operations, greater control over the structure and operation of forces under their command.

Overall, this is an excellent idea. It makes no organizational sense to divorce authority from responsibility, which is precisely what the current unified command system does. The CINCs should have greater authority to structure and operate the forces under their command. It is they who will command the forces in the field in time of war. They thus should have sufficient authority to structure and prepare those forces in time of peace.

(2) *Giving the unified commanders a budget.*

Currently, the combatant commanders are invited to comment on the budget affecting the forces under their command, but they have no real authority to decide its outcome. This means the CINCs of the unified commands are held accountable for forces over which they have limited control.

To remedy this it is proposed that the CINCs have a separate budget to cover the expenses of combat forces under their command. Such a CINC budget would cover the cost of many functions now mainly controlled by the Services. Example: support and administrative functions; command, control, communications, and intelligence (C^3I); joint training; maintenance; military construction and training expenses for missions assigned to the CINCs' theater of operations.

The Services balk at this proposal. They charge that saddling the combatant commanders with administrative and budget duties would create new "mini Pentagons," which would duplicate the administrative and budgeting functions of the Secretary of Defense's office and the JCS.[19]

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[14] Letter from Air Force Secretary Russell A. Rourke to Senator Barry Goldwater, February 4, 1986. Rourke claims that making the JCS Chairman the principal military advisor to the President will ". . . move the operational military command and control apparatus towards a centralized general staff concept."

[15] See the remarks by Congress Ronald V. Dellums, *Joint Chiefs of Staff Reorganization Act of 1985: Report together with Dissenting Views*, House of Representatives, 99th Congress, 1st Session, Report 99-375, p. 33.

[16] "Testimony of the Honorable John Lehman, Secretary of the Navy, before the Subcommittee on Investigations of the House Armed Services Committee, 26 June 1985," unpublished manuscript, pp. 2-3, 28-29. Also see Rep. James Courter, "For Real, Effective Military Reform," *The Heritage Lectures*, No. 48, 1986.

[17] See Senate Staff Report, *op. cit.*, pp. 302-324; Barrett, *op. cit.*, pp. 52-54, 123-145, 259-262; Steadman, *op. cit.*, p. 33.

[18] See the testimonies of three unified commanders in the Conference Committee Report on the DOD Authorization Act, 1985, cited in Senate Staff Report, *op. cit.*, pp. 310-311.

[19] "Specific Comments on Certain Provisions of Locher Bill," *op. cit.*

It is true that giving the CINCs a separate budget would complicate the budgeting process. But it should be possible to increase the CINC's contribution to the budgeting process without giving them a separate budget. They could share, for example, with the JCS Chairman the responsibility for reviewing the program objectives and budget proposals of each Military Department. The direct participation of the CINCs could be guaranteed without actually requiring them to submit a separate operating force budget.

Military Departments

The most critical organizational problem in the Pentagon is the predominance of the three Services or Military Departments in the decision-making process.[20] The Department of Defense lacks the political authority to control the parochial interests of the Services. The Service Chiefs dominate the JCS system, while the Service Secretaries can steamroll OSD. Powerful Service components, such as Army or Navy forces under the command of the unified commanders, constrain the latter's authority and independence. And the limited influence of the CINCs in the programming and budgeting process gives the Services the upper hand in choosing the military's weapon systems.

To remedy the problems, some analysts suggest combining the staffs of the Service Chiefs and the Service Secretaries. Proponents of this argue that combining the staffs of the military Service Chiefs and the civilian Service Secretaries would reduce staff duplication. This raises objections from the Army and the Air Force, which fear that the changes would unduly restrict Service activities. Air Force Chief of Staff General Charles A. Gabriel charges that fusing the staffs would "result in the loss of institutional benefits of military leadership of the Service." [21] Army Chief of Staff General John A. Wickham, Jr. claims that these proposals would strengthen "the role of the Service Secretary at the expense of the Service Chief" and 'leave uncertain who within the Army would be responsible to give advice on operational matters such as warfighting doctrine or organization and missions of combatant commands." [22]

These complaints are revealing. It is true that many Service reform proposals would restrict the Services somewhat. But this is precisely what is needed in strategic planning and the allocation of resources. While it is necessary to retain the input of Service technical and operational expertise into the program and budget process, it is not necessary to retain the contradictory positions or conflicting signals that the Services give when called upon to provide a budget for their forces.

Excessive Service influence on U.S. military planning has resulted in the neglect of vital military missions. Example: (1) the failure of the Navy to acquire sufficient sealift and of the Air Force to acquire sufficient airlift; (2) the failure of the Air Force to provide adequate close air support for the Army; (3) the neglect of special operation forces, demonstrated so clearly in the failed Iranian hostage rescue attempt; and (4) the heavy reliance of the Army on the helicopter because of constraints on Army aviation.[23] In the sum, many military missions have fallen through the cracks because of the lack of strategic guidance from the top.

Nevertheless, although reducing the size of the headquarters staff of the Military Departments may cut down on wasted energies and duplication, it will not have any significant impact on the Pentagon's most important force-planning problem: the lack of a central policy-making authority willing to establish force-planning priorities according to a coherent and practical strategic plan. And fusing the civilian and military staffs will not solve this problem. Only a conscious effort on the part of the Office of the Secretary of Defense to force the Services to adopt priorities in the early phases of the budgeting process would ensure that vital military missions such as airlift and sealift were not neglected.

CONCLUSION

The Packard Commission has a number of very good ideas for changing the military organization and command structure of the U.S. armed forces. Four Packard Commission proposals are particularly noteworthy: 1) consolidating the acquisition authority in an Under Secretary of Defense; 2) designating the Chairman of the Joint Chiefs of Staff as the principal uniformed military advisor to the President; 3) placing the Joint Staff under the exclusive direction of the JCS Chairman; and 4) channeling the reports and commands of the combatant commanders through the Chairman of the JCS.[24]

In addition to these Packard Commission recommendations, it is imperative that the Pentagon, and whenever necessary, the Congress, take measures to reduce the number of subordinates reporting directly to the Secretary of Defense, provide the Secretary with more flexibility to organize his office as he sees fit, create a new joint subspecialty in the officer corps to improve the quality of the Joint Staffs, and strengthen the Secretary's and the JCS Chairman's control over the planning, programming, and budgeting process.

Service opposition to many of these proposals is unreasonable, but predictable. The current planning, programming, and budgeting process is the optimum bureaucratic environment for the Services because it enables them to exert enormous influence on its outcome. A combination of weak central authority in OSD and powerful Service staffs in the military departments practically guarantees that force-planning will not be made with priorities or a coherent strategic purpose in mind.

Reforms that strengthen the Secretary of Defense's authority over the planning and budgeting process are necessary to correct this problem. So are measures to improve the quality of military advice the President receives from the Joint Chiefs of Staff. The technical and military input of the Services is invaluable, but it should not be allowed to confuse coherent force-planning.

Military reform in general, however, is no green light to cut defense spending. Change for its own sake or attacks by anti-military critics on weapon systems are not genuine military reform. Rather, military reform should be made with the express purpose of improving combat effectiveness and cultivating a tradition of excellence in the ranks of U.S. combat forces. In short, it should focus on the very purpose of combat forces, which is to fight and win U.S. wars.●

[20] Senate Staff Study, *op. cit.*, pp. 414-450; Barrett, *op. cit.*, pp. 63-66.

[21] Letter from General Charles A. Gabriel, USAF, to Senator Barry Goldwater, 4 February 1986.

[22] Letter from General John A. Wickham, USA, to Senator Barry Goldwater, 4 February 1986.

[23] Senate Report, *op, cit.*, p. 445.

[24] Packard Commission Report, *op, cit.*, p. 11.

PROPOSED ARMS SALES

● Mr. LUGAR. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notification I have received.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, May 1, 1986.

In reply refer to: I-01817/86ct.

Hon. RICHARD C. LUGAR,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 86-31, concerning the Department of the Army's proposed Letter(s) of Offer to Korea for defense articles and services estimated to cost $155 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

GLENN A. RUDD,
Acting Director.

[Transmittal No. 86-31]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Korea.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$129
Other	26
Total	155

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Fifty UH-1H helicopters, 60 turbine engines, special tools, test and support equipment, and concurrent spare parts.

(iv) Military department: Army (XWX).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending 30 September 1985.

(viii) Date report delivered to Congress: May 1, 1986.

POLICY JUSTIFICATION

KOREA-UH-1H HELICOPTERS

The Government of Korea has requested the purchase of 50 UH-1H helicopters, 60 turbine engines, special tools, test and support equipment, and concurrent spare parts. The estimated cost is $155 million.

This sale will contribute to the foreign policy and national security of the United

States by helping to improve the security of a friendly country which has been and continues to be an important force for regional stability and economic progress in northeast Asia.

Korea needs these helicopters to provide increased airlift capability and to reduce dependence on U.S. Army assets deployed in that country. Korea will have no difficulty absorbing these helicopters into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be Bell Helicopter Textron of Fort Worth, Texas and AVCO-Lycoming Division of Stratford, Connecticut.

Implementation of this sale will require assignment in Korea of one contractor representative for six months and four visits of 14 days each by six U.S. Government personnel.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

ARMS FOR TAIWAN, NOT FOR RED CHINA

● Mr. GOLDWATER. Mr. President, last week an incisive editorial appeared in the Wall Street Journal with the heading "Arms for China, Alms for Taiwan." The editorial writer asks: "Why is the United States selling fighter technology to China when it won't sell new aircraft to its allies on Taiwan?" The answer usually given by apologists for Red China is that she is tying down Soviet forces in East Asia and serves as a military asset of the West. Both arguments are fallacious.

In the first place, the Soviet Union will not significantly reduce its forces in Asia whatever its relations with Communist China. For at least two decades, the Soviet Union has undertaken the systematic and long-term development of energy and other natural resources in its Asian provinces. This resource rich region is the most vulnerable as well as valuable land in the Soviet Union. Regardless of its relations with Communist China, the Soviet Union would have constructed a logistics infrastructure and deployed military forces adequate to defend the region east of the Urals to the Pacific coast. Soviet concern about the presence of American military forces in the west Pacific and its concern about Japan provide additional reasons why the Soviets will keep massive military forces in the Far East.

It should also be recognized that the Soviet military expansion in the eastern provinces was accomplished without any reduction of forces in Eastern Europe. In fact, the number of Soviet divisions facing the West have actually increased during the buildup in the East. Thus, the premise that Red China is tying down Soviet troops that otherwise would be elsewhere disappears under critical analysis.

The contention that Communist China is a military asset for the West is equally unconvincing. Soviet capabilities are little hampered by Communist Chinese foot soldiers arrayed in a defensive mode. Moreover, it is unrealistic to presume that Western inventory or productive capacity could provide the enormous mass of weaponry and supplies needed to make Red China a match for the Soviet Union. There is little that Red China can directly contribute to the military security of the West.

As Dr. James Gregor of the Pacific basin project at the University of California, Berkeley, has written:

In the immediate and perhaps ultimate future, the non-Communist states of littoral and insular Asia might very well be of more importance to the West and to the United States than (Red China) in terms of the provision of basing and support facilities—in any confrontation with the Soviet Union.

The fact brings us back to the argument adopted by the Wall Street Journal, that it is in the real interests of the United States to upgrade the aging aircraft of the Republic of China on Taiwan, an ally who is and always has been ready to support America in every way possible.

Mr. President, I hope that my colleagues will read and pay attention to the editorial and I ask that it be printed in the RECORD.

The editorial follows:

[From the Wall Street Journal, Apr. 28, 1986]

ARMS FOR CHINA, ALMS FOR TAIWAN

China joined with the Soviet Union and several other nations in a U.N. Security Council vote last Monday condemning the U.S. for its raid on Mu'ammar Qadhafi's terrorist bases in Libya. This unfriendly gesture, coupled with a condemnatory statement from Peking shortly after the raid, raises an interesting question about U.S. foreign policy. How did the U.S. ever get the idea that its tilt toward China and away from Taiwan would be generously rewarded by Peking?

That line of inquiry raises yet another, more immediate question: Why is the U.S. selling fighter technology to China when it won't sell new aircraft to its allies on Taiwan?

The Reagan administration told Congress earlier this month that, after two years of review, it plans to sell China some $550 million of aviation equipment to upgrade its F-8 jets. Very few people oppose the sale. China's F-8s are not much better than flying rust buckets, and even with U.S. high-tech they won't present much of a threat to U.S. friends in Asia. China wants the equipment so that, among other things, the F-8s can fly at night and be able to intercept any Soviet bombers going south for vacation. Although China's U.N. vote is not encouraging to hopes of improved U.S.-China relations, the sale will bring in some export dollars.

What does rankle, however, is the U.S. reluctance to upgrade Taiwan's air force in the same way. A group of 50 prominent conservatives recently sent a letter to the White House raising that issue, while a few folks in Congress have hinted they might oppose the sale unless something is done for Taiwan. Right now Taiwan's most advanced fighter is the F-5E, a small and obsolescent plane that is inferior to some advanced fighters China is developing. Taiwan retains air superiority over the Taiwan Strait, but unless it is able to buy U.S. advanced F-20 or F-16 jets, this superiority will eventually vanish. China refuses to renounce invasion as a way to unite the two Chinas.

American's Peking lobby doesn't like any weapons sales to Taiwan, of course, because it fears the communist Chinese will scream to high heaven. It also claims a fighter sale would violate the U.S. promise, made in the 1982 Shanghai-II communique, to gradually reduce arms sales to Taiwan.

But what else is new? The Chinese always complain, loudly and in public, a tactic that usually gets them what they want. The Shanghai-II document is a case in point, since it probably violates America's earlier promise (in the Taiwan Relations Act) that it would sell Taiwan enough weapons to adequately defend itself. Somehow we doubt China would be so affronted this time that it would realign itself with the Soviets, or deny itself the U.S. capital and technology it wants to promote its "open door" economic policy. The Chinese are already pursuing better relations with Moscow; they recently hosted in Peking the highest-ranking Kremlin visitor in 15 years. China defines its own interests as walking a line between the Soviets and the West.

The U.S. has it own interests to think about too. One is being seen around the world as a reliable ally. Taiwan is surely that, most recently, we're told, having quietly offered to host America's Pacific air and naval bases if they were thrown out of the Philippines. The sale of advanced fighters would reassure Taiwan that U.S. arms sales to China aren't going to undermine its security.●

CONGRESSIONAL CALL TO CONSCIENCE

● Mr. DODD. Mr. President, as a participant in the Congressional Call to Conscience I would like to take a few minutes to discuss the plight of Soviet Jewry, the denial of their right to leave the Soviet Union as well as the Soviet Government's interference with their cultural and religious life. It is particularly fitting to raise this subject today, Holocaust Day, as we have to remember that the defeat of nazism in World War II did not end the persecution of all Jews around the world.

Another significance of this day is due to the fact that the Bern experts meeting on human contacts, a follow-up meeting on the implementation of the Helsinki Agreement, has arrived to its halfway point today. At this time it is difficult to discern if any progress is being made at that meeting. Indeed, the unresponsiveness of the Soviet Government to our human rights pleas and its consistent record of violating almost all provisions of the Helsinki Final Act caused many to question the wisdom of our continuing to adhere and demanding adherence to the Final Act.

I understand the frustration behind these sentiments as I feel frustrated myself. Still, I am convinced that to denounce any of the human rights agreements such as the one signed in Helsinki would be a misguided act. If

our adversaries are determined and stubborn in their violations, so much the more determined and stubborn must we become in demanding compliance to international obligations solemnly undertaken. Nowhere is this more important than in our fight to assist the Jewish population of the Soviet Union.

In a few days Anatoly Shcharansky will arrive for his first visit to the United States. This will provide us a splendid opportunity to learn patience, endurance, quiet determination from one who demonstrated these qualities under the most difficult circumstances. I predict he will not advise us to ease up on the pressure, to give up on the Helsinki Final Act or to compromise with the oppressors. He will call on us not to ease the pressure unless and until all Jews, who so desire, may leave the Soviet Union freely.

Anatoly Shcharansky's release itself, after all, is the result of a long and determined campaign. There are, however, masses of refuseniks left behind. Let me just briefly mention two cases here.

Emmanuel and Alla Smeliansky of Moscow, with their young son Misha, are waiting for an exit permit for over 15 years. Their application was refused under the excuse that Emmanuel possesses state secrets as a former metallurgical engineer. In fact, Emmanuel was fired from his job shortly after his first application and had to support his family as a night watchman ever since.

Aleksandr Paritsky and his family are waiting for their exit visa for 10 years. In recent years Aleksandr suffered 3 years imprisonment for organizing Jewish cultural activities. His health was so undermined in prison that a few months ago he suffered a heart attack. I was relieved to learn, though, that his health has improved since.

Mr. President, our commitment to human rights, if we are serious about it, cannot be subject to ups and downs as a result of temporary political winds. As long as we have the example of the Shcharanskys before us we can do no less but maintain the pressure by any reasonable means available to us. If we persist long enough the Soviet Government will relent and decide that to continue the denial of the fundamental right of emigration is simply not worth the price of the resulting international opprobrium. On this Holocaust Day I ask my colleagues' continuing attention to and support of this worthy cause.●

A SALUTE TO ASIAN-AMERICANS

● Mr. SIMON. Mr. President, May 5 marked the beginning of Asian/Pacific American Heritage Week, a time when we honor the achievements of Asian and Pacific citizens of the United States. There are now more than 4 million Asians living in the United States and their success here has been impressive. Historically, Asian immigrants have made tremendous contributions to the growth of this country—from Chinese-Americans who helped to build the transcontinental railroad to Japanese-Americans who helped to establish Hawaii's sugar industry.

In our time, Asians have become successful business owners, entrepreneurs, and are emerging as a powerful political voice. They have also excelled academically, taking full advantage of our greatest resource, our education system. The freedom to make one's own way is the foundation upon which our country is based and Asian-Americans, with their ethic of hard work and self-sufficiency, provide an example that we can all learn from.

I think of the Indochinese refugees who have come to our shores with little more than the shirts on their backs and proven themselves successful and industrious citizens of our country. I think of the Philippine- and Korean-Americans as well as the Asian- and Indian-Americans who make such an important contribution to the social, political, and economic life of the city of Chicago in my home State of Illinois. I think of Ellison Onizuka, the grandson of Japanese immigrants, who grew up on the island of Kona in Hawaii, where he worked in the coffee fields. He was a star athlete, an honor student, and an Eagle Scout, as well as an Air Force test pilot for 8 years. He always had the dream of being an astronaut, but until recently there were no Asian-American astronauts. Ellison Onizuka did not give up on his dream. He made it a reality. His story is an inspiration not only to Asians, but to all hard-working people.

Asians have been called a model minority, but I think the term "model Americans" is more appropriate. Through hard work and determination, they have contributed immeasurably to our country, and realized their own American dream.●

PBS DOCUMENTARY ON DRUNK DRIVING

● Mr. DANFORTH. Mr. President, on Wednesday night, May 7, a compelling documentary called "Drinking and Driving: the Toll, the Tears" will be shown nationally over public broadcasting television stations.

I call my colleagues' attention to it because I believe it effectively focuses attention on the need to continue the fight against driving while impaired by alcohol.

This documentary brings together an unlikely alliance of drivers and victims. It serves clearly to illustrate that drunk driving affects us all.

The area of highway safety is of great concern to me. I have sponsored or supported legislation, now signed into law, to reduce the death toll on our highways related to alcohol and drug abuse.

Hundreds of people—most of them young Americans in the 18 to 20 age group—owe their lives to changes in State drinking ages brought about by the Federal law that requires States to enact age 21 drinking laws in return for full allocation of Federal aid for highway construction. States without age 21 drinking on October 1 will lose 5 percent of their Federal highway construction funds. The amount withheld increases to 10 percent the next year.

In 1982, Congress passed legislation to increase Federal funding for States that require mandatory license suspension for driving while under the influence. The law expanded in 1984 to enable States to use laws against drugged driving in qualifying for the increased Federal funding.

In addition, the 1984 law will improve tracking of repeat drunk-driving offenders by providing funding to States that computerize their traffic records.

In 1984, Congress passed changes in the Federal bankruptcy code that prevent drunk drivers from escaping their debts from damage judgments under bankruptcy.

Recently, Senator PACKWOOD joined with me in introducing legislation to improve the safety of interstate truck and bus operations by providing, among other things, for a vigorous effort to detect impairment in professional drivers.

Both tough penalties and incentives have significantly decreased the deaths and injuries from driving while impaired by alcohol. But the loss of life and limb to alcohol continues to represent a terrible waste.

Every driver needs to know that one can be drunk enough to kill or injure someone before one reaches the legal intoxication level. We need to do everything possible to make sure that our friends and loved ones do not drive when their judgment and coordination are impaired.

Laws are working. But each of us needs to do our part in the fight to save lives and prevent injuries. I want to congratulate the Public Broadcasting Service for, once again, helping to raise our consciousness.●

WHAT PARENTS DON'T KNOW ABOUT CRACK

● Mr. CHILES. Mr. President, over the last year I have become disturbingly aware of the influence crack and rock cocaine have had on our youth. These purified cocaine nuggets have introduced many of our young to the

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addictive drug of cocaine because this form is cheap and it produces an instant high. For as little as $4 to $5, one can buy a hit or puff of rock cocaine. This new drug form is spreading across the country and has introduced a whole new class to cocaine—long thought of as the drug of the upper and jet classes.

The Drug Enforcement Administration has met with State and local law enforcement to consider new methods of dealing with rock and crack cocaine. I have introduced legislation to direct the Attorney General to develop a model statute to help State and local officials in policing freebase houses where rock and crack cocaine are sold and smoked. Law enforcement must be prepared to curb the possible epidemic of rock and crack.

But law enforcement is not the only solution. We must also educate our youth and their parents about this lethal drug. Its highly addictive nature and health hazards should be known to any potential user. I was pleased to see that People magazine devoted several pages to an informative discussion of crack cocaine with the director of an adolescent treatment center. I would imagine that most kids read People and am pleased to see the magazine help in the education of our youth.

Mr. President, I ask that my letter to People and the article on crack cocaine be printed in the RECORD.

The material follows:

U.S. SENATE,
May 6, 1986.

PEOPLE,
Time and Life Building, Rockefeller Center, New York, NY.

DEAR EDITOR: I commend People for "What Parents Don't Know About 'Crack,' the New Cocaine Threat . . .," May 12 issue.

I noted that Ellen Morehouse referred to a 1985 study finding that cocaine use among teens is up in every region of the country "except the South." Unfortunately, that has changed, at least in Florida, thanks to cocaine "crack" or "rock." Veteran law enforcement people in Florida, deeply concerned, tell me the rock craze is the fastest-growing drug problem they've faced, especially for teens.

While I'm pushing some loophole-closing legislation, I know the real hope must lie in public information and education. Your piece should make Mom stop, when she gives Johnny $5 for the movie, and realize she just provided the price of a "rock hit." And the awful truth it provides about addiction and destruction will hopefully help discourage young people from trying it.

Thanks for this good work.

Sincerely,

LAWTON CHILES.
U.S. Senator.

WHAT PARENTS DON'T KNOW ABOUT "CRACK," THE NEW COCAINE THREAT, COULD BE HAZARDOUS TO THEIR KIDS

For years cocaine largely escaped the grim and sordid reputation reserved for other illicit drugs. While hardly anyone argued that coke was completely harmless, the social threats posed by 'the champagne of drugs" seemed sufficiently remote to most American families. Experts did warn that coke snorting could result in disorders ranging from inflamed sinuses to psychosis, but few thought it to be relentlessly addictive. Cocaine might be a problem for celebrities and fast-trackers, many parents reasoned, but not for neighborhood kids.

Such perceptions are changing with the appearance of cocaine in a more menacing, smokable "freebase" form. Called "crack" or "rock," it is potent, conveniently packaged and cheap enough to attract even teenagers on an allowance. From the big cities, it already has invaded the suburbs.

As director of adolescent treatment at Stony Lodge Hospital's Outpatient Recovery Center in Ossining, N.Y., Ellen Morehouse has seen the crack problem grow. A graduate of Cornell and New York Universities, she is also executive director of the Student Assistance Services, whose alcohol-and-drug use prevention program for New York's Westchester County is serving as a model for schools elsewhere in the U.S. and Canada. Morehouse, 36, who lives with her attorney husband and 2-year-old son in Westchester, spoke with reporter Jane Sudgen on the social roots of the new cocaine epidemic among teens.

How fast is cocaine use spreading among young people?

In a 1975 University of Michigan study, 9 percent of high school seniors surveyed said they had used it at some time in their lives. Ten years later that number was up to 17 percent. The survey in 1985 also found cocaine use up among all groups of teens—males and females, college bound or not, urban and rural—and in every region of the country except the South.

Isn't cocaine expensive?

The idea that cocaine is just for the rich is a myth. It's like pocket calculators—expensive when they first appeared, but now anyone can afford them. In New York City a gram of coke—enough for 10 good-size lines, or doses—goes for $80 to $120 on the streets. Most teens know where to get cocaine, and a group might pool their money on Friday night to get high. Our research in Westchester County found no difference in the pattern of cocaine use between those in the poorest and richest high schools. It is an equal-opportunity epidemic.

How did cocaine become a "drug of choice" with kids?

Adolescents by definition are trendy. In the late '60s it was "in" to look poor, to be earthy, natural, to wear worn-out jeans with patches. Marijuana became popular then; smoking pot made you mellow. But now materialism is back. Money is okay, success is great, the more designer labels the better. Cocaine fits the mood of the 1980s. It's a high-performance drug associated with movie stars, athletes, the rich and glamorous.

Is it easy to get hooked on cocaine?

Let's face it: Coke really works, at least at the start. When a person first uses it, he gets a feeling of well-being. He can stay up later, work longer. Sexual performance may be improved, initially. In the case of teenagers who may not be socially confident, coke gets them where they want to be. They become part of the group, and, unlike heroin, there's neither the stigma nor the dangers from the use of needles. Coke is a white powder, which makes it seem more socially acceptable.

What exactly is crack?

It's a kind of dealer-prepared cocaine freebase, in which powdered coke is mixed with baking soda and water to form a paste. After the concoction hardens, it looks like off-white granulated sugar; it is broken into chips or tiny lumps.

What is the advantage of crack?

Crack is easier to use. Lots of people find it distasteful to snort powdered cocaine. But crack is pure; it can be used in a cigarette or smoked in a pipe. It's cheap and convenient. A two-dose vial of crack costs about $10.

Is crack dangerous?

Smoking cocaine freebase is much more potent and very dangerous form of coke use. In snorting the powder, it takes up to five minutes for the user to feel the effects. But in smoking freebase, it taken only eight seconds. The high is almost immediate, the euphoria more intense. The heart starts beating at a very fast rate, blood pressure often rises, and heart-lung problems and seizures can occur. The terrifying thing about crack is that a youngster could become addicted in a matter of weeks.

What is the pattern of cocaine use?

Cocaine users develop a tolerance for the drug. The euphoria is never the same as it was at the beginning. They might use four times more cocaine and still never repeat the original high. But the addict so craves the ultimate rush that he lets everyting else go and assumes great risks to get cocaine.

How do addicted youngsters support their growing drug habits?

Many begin to steal—from parents, relatives, friends. They might rip off car radios, turn to prostitution—anything for the ultimate high. Some become drug dealers themselves.

Why are youngsters so reluctant to heed warnings about cocaine?

There's a natural tendency among kids to experiment. They tend to do dangerous things without considering the consequences. Kids often ignore adults' warnings. One youngster I know bought crack, got into his car, put one of the rocks in his pipe, lit up, inhaled, stepped on the accelerator and passed out. He hit a phone pole but miraculously survived.

Have parents contributed to this casual disregard of cocaine's dangers?

If an adolescent sees his parents as heavy drinkers or users of drugs—even such things as sleeping pills—he will think it is an acceptable way to get rid of problems, a way to feel better. And a lot of today's parents grew up in the Vietnam era and used drugs. They saw movies like *Reefer Madness,* but they believed that pot did not hurt a lot of them. So they don't believe cocaine is dangerous, either. They won't take it seriously. Parents say to me, "I know my child is going to experiment, and I don't mind. I just don't want him to use too much." this is tragic. Before they know it, their kids are hooked.

If parents suspect their child is on cocaine, what signs should they look for?

Dramatic weight loss over a relatively short time is one sign, especially with crack. Sometimes they cough up a black mucus. One kid lost 16 pounds in a month. It often takes parents a while to see the changes in a child's life patterns. He used to be interested in his girlfriend, sports, his homework; now he isn't interested in much of anything. His grades skid. After every high there is a crash, so another early sign is the youngster's staying in bed. Kids on cocaine sometimes sleep 14, 16 hours because they are so exhausted after the high.

How can youthful addicts be helped?

The first step is to stop the use of cocaine, or any mood-altering drug, immediately and completely. Sometimes this requires hospi-

talization to break accessibility to the drug. Even without that, there must be urine screening at least twice a week. Parents must get involved in the recovery; the family must be educated about the addictive process. The kids should understand that recovery is going to be hard, but it is easy to relapse. They must participate in the programs of such groups as Narcotics Anonymous or Cocaine Anonymous or even Alcoholics Anonymous. The schools can provide support through counselors. Exercise is important: It also is a stimulant, but a natural one. Our program of abstinence and lifestyle change lasts generally six to 12 months, but we look on cocaine addiction as a life-long illness.

Can the cocaine epidemic be stopped?

The cocaine-prevention battle really starts with cigarettes and alcohol. Not everyone who smokes or drinks turns to cocaine, but there are very few cocaine users who did not first use tobacco, marijuana or alcohol. More broadly there is the whole psychology of drugs. Our society must see that we are far too much a drug culture. Changing attitudes in any profound way won't come easily, but there's hope. Smoking, for example, is no longer the vogue. There has been some decrease in alcohol consumption, and marijuana use is down somewhat, too. We must make cocaine unchic. We must deglamorize it before it's too late.●

THE SEMI-LIBRARY OF CONGRESS

● Mr. SIMON. Mr. President, through my lifetime, I have seen people protesting all kinds of cases, frequently doing more harm through their protest.

I frankly find it kind of refreshing that people are protesting the fact that the Library of Congress is not open more hours of the week.

I would hope that, somehow, a practical compromise can be worked out that will open the Library of Congress a little more. A Nation that has one-third of the world's economy—by far, the richest nation on the face of the earth—ought to be able to keep its national library open to accommodate its students and scholars.

Recently, an interesting item appeared in the New York Times, written by Russell Mokhiber entitled, "The Semi-Library of Congress."

I ask that it be printed in the RECORD.

The item follows:

THE SEMI-LIBRARY OF CONGRESS

(By Russell Mokhiber)

Question: What do El Salvador, Guatemala, Peru, Cuba, China, the Soviet Union, the Dominican Republic, Honduras, East Germany, Japan, Brazil, Chile, Colombia, Spain, Belgium, Australia and Italy have in common?

Answer: Their national libraries are open more hours per week than the national library of the United States: the Library of Congress.

The reason is that the Library of Congress has cut its reading room hours by 30 percent. On March 10, the first weekday since 1897 that the Library was scheduled to be closed in the evening, more than 100 people gathered in the beautiful and peaceful main reading room and refused to leave at the new closing hour, 5:30 P.M. We stayed until 9:30 P.M., the old closing time. For the first hour or so, individuals stood and expressed their love for the Library of Congress and their outrage at the early closing.

The sit-in was organized by the "Books Not Bombs Campaign to Save the Library of Congress," a group of Library users. The reading room was transformed into a forum on President Reagan and how his policies have hurt the nation. Speakers made the point that this priorities are up-side-down and that it was ridiculous for the President to be spending billions on weapons of mass destruction while at the same time closing the Library's doors and foreclosing on farmers.

William Hirzy, who was one of the protestors, said; "Free access to information is a foundation of Democracy, and the closing of the greatest library in the world on most weekday evenings and Sundays, combined with the cut in Library services to blind and handicapped persons, the curtailment of acquisition of needed current material and the cuts in cataloging, rendering much material inaccessible, drastically restricts the flow of information and serves to undermine democracy."

The protest continued on March 11 and March 13, and on March 13, an organizer, Mary Maloney, received a telephone call from William J. Welsh, deputy librarian, who told her that if the protest continued that evening, the police would make arrests. "Why was the Library changing its policy?" she asked Mr. Welsh, who replied that the protest was "no longer serving a useful purpose" and had become "too political."

That evening, 14 people, including a 77-year-old woman, were arrested, many for the first time in their lives, because they refused to leave. Since then, four more people have been arrested, raising the total to 18. By now, many of the organizers have received stay-away orders prohibiting them from using any Library facilities through Oct. 1.

Rather than ordering arrests and issuing stay-away orders, the Librarian of Congress, Daniel J. Boorstin, should be joining with us in the main reading room to protest. It is not enough for him to give passionate testimony before Congressional committees, although it was just such testimony that informed and inspired many of the demonstrators.

On Feb. 20, Dr. Boorstin testified before members of Congress that "the situation of your, of our Library is serious, it is even dangerous, and could become tragic for our nation, the Congress and the whole world of learning." He said that the planned cutback in hours would make the Library's services and resources "inaccessible to any person who must hold down a regular job." He said that if current budgetary cuts were pursued, the Library would "quickly deteriorate." He said: "It can be disintegrated in a decade and destroyed in two decades." He argues that the Library would be transformed from "a monument to our Founders' faith in knowledge, a byproduct of our nation's faith in freedom of inquiry," into a "symbol of a nation's lack of faith in itself, a symptom of a nation in terror and decline."

Dr. Boorstin said: "Historians will not fail to note that a people who could spend $300 billion on their defense would not spend $18 million on their knowledge—and could not even keep their libraries open in the evenings." And he called the budget cuts "anti-democratic and anti-knowledge."

Our message exactly.●

NAUM AND INNA MEIMAN: PERSISTENT AND DEDICATED

● Mr. SIMON. Mr. President, Naum and Inna Meiman have endured harassment from Soviet officials because of their desire to emigrate to Israel. The Meimans' dogged determination to emigrate has resulted in worldwide support for their plight.

I have received letters from Paris, France, from Indiana, and from Illinois expressing deep concern for the Meimans and for Inna's health. Inna has had four cancer operations and the prognosis is not good while under Soviet medical care. Western medical authorities have suggested treatment that could provide a cure, but without permission to emigrate, such treatment is only a dream.

I implore Soviet officials to permit the Meimans to emigrate to Israel.●

CHILD SEXUAL ABUSE AND PORNOGRAPHY ACT

● Mr. CHILES. Mr. President, I am informed that I was inadvertently left off S. 2398 when it was introduced last Thursday, May 1, 1986. I support this legislation just as I supported S. 554 which the senior Senator from Delaware [Mr. ROTH] introduced last year.

Senator ROTH is to be commended for the time and effort he has devoted to the issue of child pornography. Both he and Senator SAM NUNN have demonstrated diligence and leadership in bringing this problem before the American people.

The Permanent Subcommittee on Investigations, chaired by Senator ROTH, conducted a year-long investigation into the sexual abuse and exploitation of children through the crass, dehumanizing experiences forced on them by pedophiles. Last year, the subcommittee, in emotionally filled hearings, heard from a young man who was fighting to overcome the personal scars he had suffered as a result of sexual exploitation. I would like to echo the remarks Senator ROTH made in his statement on May first when he introduced S. 2398.

For the sake of our children, we must do more to restrict the availability of child pornography to these individuals (pedophiles).

Last year when S. 554 was introduced, I cosponsored the act because I felt it was a good first step toward eliminating the loopholes that exist in the law. Right now, the law provides for penalties for both the production and distribution of child pornography but does little to restrict the advertisement of that illegal material.

This legislation is also important for it amends the Mann Act and makes the law applicable to males as well as

females. The PSI Subcommittee heard considerable testimony which pointed to the exploitation of young children of both sexes by pedophilies often by transporting them across State lines. Formerly, the Mann Act only applied if money changed hands and was designed to prohibit interstate prostitution. Under S. 2398, pedophiles who exchange young victims for their pleasure will also be covered by the Act.

Again, Mr. President, I am happy to join other Senators in supporting this bill and I am hopeful that the Senate will move quickly to enact this bill.●

A NEED TO DO MORE

● Mr. ABDNOR. Mr. President, I am pleased that the Office of Technology Assessment has completed its long-awaited study of Federal Indian health care programs.

As one who urged that such a report be compiled, I salute the work of the advisory panel headed by Dr. Rashi Fein of Harvard Medical School. I am also proud that Dr. Clark Marquart of Rosebud, SD, was a member of the Indian Health Care Advisory Panel which assisted in preparing this report. Dr. Marquart has long been active in Indian health programs and efforts to improve them both on a State and national level.

Mr. President, the good news is that the health of native Americans has improved dramatically since the Indian Health Service was founded in 1955. The bad news is that the mortality rate for Native Americans is still nearly 1.5 times that of the general American population.

This study will serve as the foundation of a long-needed review of Indian health care. The OTA study found that there exists confusion and lack of direction in Federal Indian health programs. In addition, the Federal role has never been determined beyond the year-to-year direction of Congress and the current Presidential administration.

As a member of the Senate Select Committee on Indian Affairs, I take great pride in the efforts of our committee to assist the Indian Health Service in strengthening current Indian health programs in Indian country. Since the founding of the Indian Health Service, there has come a greater awareness of the role that education and preventative medicine play in improving the health status of Native Americans. Pneumonia and influenza deaths have decreased by 50 percent. However, the incidence of diabetes and infant mortality continue to be higher than the general population.

Mr. President, I salute the efforts of the Indian Health Care Advisory Panel and the staff of OTA for this important report. I shall continue to do all I can to see that its recommendations and criticisms are acted upon.●

HOLOCAUST REMEMBRANCE DAY

● Mr. LAUTENBERG. Mr. President, today, communities all over the world will gather to commemorate the atrocities of the Holocaust. Millions of people will pause to reflect on the cold years from 1933-45 in which the world witnessed one of the darkest chapters in human history.

We in the Capitol gathered to light candles in memory of the 6 million victims of the Holocaust. Israel will observe 1 minute of silence in their memory. During these moments, buses will sit silently on the streets, teachers will interrupt lessons, and children will quietly cease activity. For 1 minute, the entire country will sit in suspended animation pondering the horrors of the Holocaust. The gas chambers. The starving children. The torture. The disease. The smell of death. The silence.

It is fitting that today has been designated by the Israeli Government as Holocaust Remembrance Day, or Yom Hashoah, for it falls between the date of the uprising of the Warsaw Ghetto against the Nazis and before Israel's War of Independence. It also falls during a traditional mourning period for the Jewish people.

Today not only Israel and the United States but people the world over mourn the senseless deaths of 6 million Jews together. We should also take a moment to praise the resolve of those who climbed back from the edge of annihilation to create a future in the Jewish State of Israel.

Mr. President, the tragedy of the Holocaust is a testimony to man's inhumanity to man. That Adolf Hitler and his Nazi forces set out to systematically exterminate a once vibrant and thriving community of Jews in Eastern Europe—simply because they were born Jews—is unfathomable. But that the world stood by in silence and witnessed these heinous crimes is almost beyond belief.

No one protested when S.S. General Heidrich and some of the most educated people in Germany sat down to determine the "Final Solution" to the Jewish question.

No one took seriously the words of German boys and girls marching through the streets singing "When Jewish blood spurts from the knife, then all goes twice as well". Or the night of broken glass, when Jewish shops and businesses throughout Germany were ordered smashed and burned by the Nazis.

The world was silent in 1938 when the Gestapo first ordered and hauled thousands of Jews to concentration camps. And, too few listened to the cries of 6 million Jews or protested as they were carted off to their deaths in Nazi gas chambers. Because the voices of outrage were not heard, the Nazis came to power and began their campaign to exterminate the Jews of Eastern Europe.

But the Jews of the Warsaw ghetto refused to keep silent. Under the leadership of Mordechai Anielewicz, Jews in the Warsaw ghetto organized resistance forces to fight Nazi liquidation. By smuggling in arms through the Polish underground, Anielewicz and his forces succeeded in holding off the German forces for 1 month. In the end, only a few crept their way to freedom through the pipes of the Warsaw sewer system. Although most of the resistance forces were killed by Germans, it was not without protest, struggle, and anger.

The world should have taken a page from Anielewicz and his resistance forces. It should have organized and interceded in that era of desperation on behalf of the Jews. But the world sat in silence as 6 million were consumed by Nazi flames.

It is our job to assure that this silence is broken, again and again. That the world is never allowed to forget what happened during the Holocaust. We know that those who forget the lessons of history are condemned to repeat its mistakes. We have the responsibility to ensure that these horrors will never again be repeated. For the sake of the future, we must not forget the past.

TAX TREATMENT OF PERSONAL USE OF EMPLOYER-PROVIDED VEHICLES

● Mr. D'AMATO. Mr. President, I rise today to cosponsor legislation introduced by my distinguished colleague from Arkansas which will impose a reasonable moratorium on the enforcement of Internal Revenue Service regulations relating to the tax treatment of the personal use of employer-provided vehicles. I speak of S. 2090, now pending in the Senate Committee on Finance.

Mr. President, our history on this issue is a tortured one. In 1984, Congress passed the Deficit Reduction Act, which included a requirement for "contemporaneous recordkeeping" to document all Federal tax deductions relating to the personal use of such vehicles. The IRS interpreted these regulations in such an onerous fashion that the resulting public outcry led to a 1985 repeal and restatement of the legislation. However, the IRS legislation that followed this restatement of congressional intent failed to make all the changes contemplated by Congress. Small businesses still are under the gun; they have to exercise caution to the point where they can see no practical difference between current

regulations and the repealed legislation. The questions asked on the 1985 tax forms leave many such taxpayers worried that any affirmative answer is the shortest way possible to a tax audit.

Frankly, it is time to revisit the issue. It is time to implement a more reasoned approach. We should use this moratorium period to review these regulations and to see if we can combine sound tax treatment for the personal use of employer-provided vehicles with a reasonable recordkeeping requirement on our constitutents. S. 2090 will give us the time for this review by delaying any enforcement of the regulations until at least July 1, 1987. It will also prevent the Secretary of the Treasury from issuing any regulations relating to the substantiation requirements for these deductions during the moratorium period.

Mr. President, I am pleased to cosponsor this excellent legislation, and I urge its speedy passage.●

TECHNOLOGY LITERACY

● Mr. HART. Mr. President, I wish to address an issue which is of enormous importance in maintaining our country's competitive edge in an increasingly complex world: The education of our youth in technology.

During the past few years, Congress has recognized the importance of training our future generations in mathematics and science. We have translated this concern into legislation that promotes these disciplines in our schools. We have not, however, made the same kind of effort with technology education.

My distinguished colleague for West Virginia recently addressed this problem by introducing the Technology Literacy Act in the Senate. Once again, Mr. ROCKEFELLER has demonstrated his commitment to progressive ideas and a strong belief in opportunity and excellence. I commend my colleague for his able and farsighted leadership.

Mr. President, I believe that the Technology Literacy Act will catalyze the national debate on technology education, and I am pleased to cosponsor it.

Mr. ROCKEFELLER and I share the belief that teaching students about technology, its impact on our culture, its place in our history and its promise for the future is critical to their education and our Nation's prosperity. We must instill in our younger generations the same spirit of innovation and creativity that made this country the leader of today's technological revolution.

Mr. President, I would like to include for the RECORD testimony by Mr. ROCKEFELLER before the House Subcommittee on Elementary, Secondary and Vocational Education. I am certain that Senators, like our colleagues in the House, will find his comments thoughtful and enlightening.

The testimony follows:

TESTIMONY BY SENATOR JOHN D. ROCKEFELLER IV, THE TECHNOLOGY EDUCATION ACT

Mr. Chairman and Members of the Committee, it is a great pleasure to be here today to testify on behalf of H.R. 3102, the "Technology Education Act". As chief sponsor of the companion bill, S. 1823, the "Technology Literacy Act", I am grateful for the opportunity to appear before you and present my views on this important issue.

Over the years, this distinguished Committee has shown time and again its commitment to improving and maintaining excellence in our country's educational system. This Committee can take pride in its many accomplishments and its foresight in identifying new educational challenges. During the last few years, for example, mathematics and science have become a key priority in the education of our children. Thanks to legislation which emphasized the need to strengthen our scientific base, we have developed new curricula, trained qualified teachers and increased the exposure of our children to mathematics and science at an early age.

Today, you have once again proven your concern and foresight by holding this hearing in recognition of the importance of training our youth in technology. As the Carnegie Foundation noted in a recent report, we are running the risk of jeopardizing this country's economic security by raising a "technologically illiterate" generation.

In my view, we are facing an unprecedented challenge to our economic prosperity. We have to build our future prosperity in an increasingly technological world where many talented nations compete effectively. Therefore, it is imperative that our country, which led the world into the age of technology, maintain its edge and provide its children with the skills they need to compete and prosper.

Experience has shown us that, although technology goes hand in hand with scientific and mathematical knowledge, it may develop from a practical need and an imaginative mind. It is this talent for innovation and the ability to find technological solutions that we need to instill in our students if we are to compete in the world market and enhance our own future. I believe that teaching students about technology, its impact on our culture, its place in our history and its promise for the future will go a long way in achieving this goal.

This is the purpose of the "Technology Education Act". This bill promotes the teaching of technology as part of the secondary curriculum, making students knowledgeable and comfortable with technology at an early age. Furthermore, the "Technology Education Act" provides for teacher training, development of new courses and emphasizes hands-on experience of technological principles.

In order to implement these ideas, this Act establishes a program of grants for the development of model demonstration projects in technology education in secondary schools.

For those of us who represent traditionally underserved areas, this bill provides a thoughtful solution by requiring an equitable geographic distribution of the demonstration projects. Just as importantly, it insures the commitment and interest of the local educational agencies by placing limitations on the amount of Federal assistance, thus requiring that the cost of the projects be supplemented using other non-Federal contributions.

One of the most appealing aspects of the "Technology Education Act" is that it promotes the national dissemination of all the research, coursework, development, training materials and practical knowledge acquired in the demonstration projects. New technology education programs will directly benefit from this information and the original investment will pay off very quickly.

Mr. Chairman, in these times of economic austerity and budget deficits, it would be irresponsible on my part not to acknowledge that H.R. 3102 and S. 1823 call for appropriations of $3 million in fiscal year 1987. Although this amount is minute compared to what we spend on other, perhaps less worthy programs, it is crucial that we carefully monitor where we spend money and why.

Every Member of Congress will have to make tough decisions establishing their spending priorities. Education—at the federal level, to supplement and enrich the efforts of the states—is fundamentally important. A world-class education system is central to our nation's economic destiny, and right now, our education system—once the envy of the world—has fallen behind Japan's and several Europeon nations at the primary and secondary level. Well-Designed expenditures for innovations in education are critical investments. If we sacrifice these critical investments, we will be shortchanging our children and endangering their economic future.

I recently ran across an article by Ernest Boyer called "A Perspective on Education". In it Mr. Boyer says: "The issue is not computers. The issue, rather, is the changing of our society, driven by a technology revolution that is an fully important as the industrial revolution over 100 years ago."

I agree with this assessment. We are living a technological revolution which our country helped to create. We cannot sit back and watch it go by. We must improve this country's innate ability to tackle new challenges by giving our children the tools they need: the technical skills to compete in the 21st century. The "Technology Education Act" is far from the whole answer, but I hope it will serve as the catalyst for a national debate on the critical need to enhance our children's grasp of technology.

Again, I am grateful for the opportunity to express my support for the "Technology Education Act" and to praise Congressman BOUCHER for the leadership on this issue. Thank you very much.●

ORDERS FOR WEDNESDAY

RECESS UNTIL 10 A.M.

Mr. SIMPSON. Mr. President, after conferring with the Democratic leader, I then ask unanimous consent that once the Senate completes its business today it stand in recess until the hour of 10 a.m. on Wednesday, May 7, 1986.

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

RECOGNITION OF CERTAIN SENATORS

Mr. SIMPSON. 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, MCCONNELL, CRANSTON, and PROXMIRE.

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

ROUTINE MORNING BUSINESS

Mr. SIMPSON. 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 10:30, with Senators permitted to speak therein for not more than 5 minutes each.

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

PROGRAM

Mr. SIMPSON. Mr. President, at the conclusion of routine morning business, the Senate could also turn to S. 2295, the military reorganization bill, and possibly Senate Joint Resolution 331, prohibiting the sale of avionics to China. Votes can be expected throughout the day on Wednesday, May 7, 1986.

Mr. SIMPSON. Mr. President, does the Democratic leader have any further business?

Mr. BYRD. The distinguished assistant Republican leader is most gracious, as always. I do not have anything further.

Mr. SIMPSON. I thank the Senator from West Virginia for his continuing courtesies to me.

RECESS UNTIL 10 A.M. TOMORROW

Mr. SIMPSON. Mr. President, with that, and in accordance with the previous order of the Senate, I move that the Senate stand in recess until the hour of 10 a.m. on Wednesday, May 7, 1986.

The motion was agreed to; and, at 8:16 p.m., the Senate recessed until Wednesday, May 7, 1986, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate May 6, 1986:

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

James C. Fletcher, of Virginia, to be Administrator of the National Aeronautics and Space Administration.

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.