

I request unanimous consent that the full text of my bill be printed in the RECORD.

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

S. 523

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

**SECTION 1. TREATMENT OF CERTAIN HOSPITAL SUPPORT ORGANIZATIONS AS QUALIFIED ORGANIZATIONS FOR PURPOSES OF DETERMINING ACQUISITION INDEBTEDNESS.**

(a) IN GENERAL.—Subparagraph (C) of section 514(c)(9) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “; or”, and by adding at the end the following new clause:

“(iv) a qualified hospital support organization (as defined in subparagraph (I)).”

(b) QUALIFIED HOSPITAL SUPPORT ORGANIZATIONS.—Paragraph (9) of section 514(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(I) QUALIFIED HOSPITAL SUPPORT ORGANIZATIONS.—For purposes of subparagraph (C)(iv), the term ‘qualified hospital support organization’ means, with respect to any indebtedness, a support organization (as defined in section 509(a)(3)) which supports a hospital described in section 170(b)(1)(A)(iii) and with respect to which—

“(i) more than half of its assets (by value) at any time since its organization—

“(I) were acquired, directly or indirectly, by gift or devise, and

“(II) consisted of real property,

“(ii) the fair market value of the organization’s unimproved real estate acquired, directly or indirectly, by gift or devise, exceeded 10 percent of the fair market value of all investment assets held by the organization immediately prior to the time that the indebtedness was incurred, and

“(iii) no member of the organization’s governing body was a disqualified person (as defined in section 4946 but not including any foundation manager) at any time during the taxable year in which the indebtedness was incurred.

In the case of any refinancing not in excess of the indebtedness being refinanced, the determinations under clauses (ii) and (iii) shall be made by reference to the earliest date indebtedness meeting the requirements of this subparagraph (and involved in the chain of indebtedness being refinanced) was incurred.”

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to indebtedness incurred on or after the date of the enactment of this Act.

By Mr. INOUE:

S. 524. A bill to amend the Organic Act of Guam to provide restitution to the people of Guam who suffered atrocities such as personal injury, forced labor, forced marches, internment, and death during the occupation of Guam in World War II, and for other purposes; to the Committee on the Judiciary.

THE GUAM WAR RESTITUTION ACT

Mr. INOUE. Mr. President, for nearly three years, the people of Guam endured war time atrocities and suffering. As part of Japan’s assault

against the Pacific, Guam was bombed and invaded by Japanese forces within three days of the infamous attack on Pearl Harbor. At that time, Guam was administered by the United States Navy under the authority of a Presidential Executive Order. It was also populated by then-American nationals. For the first time since the War of 1812, a foreign power invaded United States soil.

In 1952, when the United States signed a peace treaty with Japan, formally ending World War II, it waived the rights of American nationals, including those of Guamanians, to present claims against Japan. As a result of this action, American nationals were forced to seek relief from the Congress of the United States.

Today, I rise to introduce the Guam War Restitution Act, which would amend the Organic Act of Guam and provide restitution to those who suffered atrocities during the occupation of Guam in World War II. There are several key components to this measure.

The Restitution Act would establish specific damage awards to those who are survivors of the war, and to the heirs of those who died during the war. The specific damage awards would be as follows: (1) \$20,000 for death; (2) \$7,000 for personal injury; and (3) \$5,000 for forced labor, forced march, or internment.

The Restitution Act would also establish specific damage benefits to the heirs of those who survived the war and who made previous claims but have since died. The specific damage benefits would be as follows: (1) \$7,000 for personal injury; and (2) \$5,000 for forced labor, forced march, or internment. Payments for benefits may either be in the form of a scholarship, payment of medical expenses, or a grant for first-time home ownership.

This Act would also establish a Guam Trust Fund from which disbursements will be made. Any amount left in the fund would be used to establish the Guam World War II Loyalty Scholarships at the University of Guam.

A nine member Guam Trust Fund Commission would be established to adjudicate and award all claims from the Trust Fund.

The United States Congress previously recognized its moral obligation to the people of Guam and provided reparations relief by enacting the Guam Meritorious Claims Act on November 15, 1945 (Public Law 79-224). Unfortunately, the Claims Act was seriously flawed and did not adequately compensate Guam after World War II.

The Claims Act primarily covered compensation for property damage and limited compensation for death or personal injury. Claims for forced labor, forced march, and internment were never compensated because the Claims Act excluded these from awardable injuries. The enactment of the Claims Act was intended “to make Guam whole.” The Claims Act, however,

failed to specify postwar values as a basis for computing awards, and settled on prewar values, which did not reflect the true postwar replacement costs. Also, all property damage claims in excess of \$5,000, as well as all death and injury claims, required Congressional review and approval. This action caused many eligible claimants to settle for less in order to receive timely compensation. The Claims Act also imposed a one-year time limit to file claims, which was insufficient as massive disruptions still existed following Guam’s liberation. In addition, English was then a second language to a great many Guamanians. While a large number spoke English, few could read it. This is particularly important since the Land and War Claims Commission required written statements and often communicated with claimants in writing.

The reparations program was also inadequate because it became secondary to overall reconstruction and the building of permanent military bases. In this regard, the Congress enacted the Guam Land Transfer Act and the Guam Rehabilitation Act (Public Laws 79-225 and 79-583) as a means of rehabilitating Guam. The Guam Land Transfer Act provided the means of exchanging excess federal land for resettlement purposes, and the Guam Rehabilitation Act appropriated \$6 million to construct permanent facilities for the civic populace of the island for their economic rehabilitation.

Approximately \$8.1 million was paid to 4,356 recipients under the Guam Meritorious Claims Act. Of this amount, \$4.3 million was paid to 1,243 individuals for death, injury, and property damage in excess of \$5,000, and \$3.8 million to 3,113 recipients for property damage of less than \$5,000.

On June 3, 1947, former Secretary of the Interior Harold Ickes testified before the House Committee on Public Lands relative to the Organic Act, and strongly criticized the Department of the Navy for its “inefficient and even brutal handling of the rehabilitation and compensation and war damage tasks.” Secretary Ickes termed the procedures as “shameful results.”

In addition, a committee known as the Hopkins Committee was established by former Secretary of the Navy James Forrestal in 1947 to assess the Navy’s administration of Guam and American Samoa. An analysis of the Navy’s administration of the reparation and rehabilitation programs was provided to Secretary Forrestal in a March 25, 1947 letter from the Hopkins Committee. The letter indicated that the Department’s confusing policy decisions greatly contributed to the programs’ deficiencies and called upon the Congress to pass legislation to correct its mistakes and provide reparations to the people of Guam.

In 1948, the United States Congress enacted the War Claims Act of 1948 (Public Law 80-896), which provided reparation relief to American prisoners

of war, internees, religious organizations, and employees of defense contractors. The residents of Guam were deemed ineligible to receive reparations under this Act because they were American nationals and not American citizens. In 1950, the United States Congress enacted the Guam Organic Act (81-630), granting Guamanians American citizenship and a measure of self-government.

The Congress, in 1962, amended the War Claims Act to provide benefits to claimants who were nationals at the time of the war and later became citizens. Again, the residents of Guam were specifically excluded. The Congress believed that the residents of Guam were provided for under the Guam Meritorious Claims Act. At that time, there was no one to defend Guam, as they had no representation in Congress. The Congress also enacted the Micronesian Claims Act for the Trust Territory of the Pacific Islands, but again excluded Guam in the settlement.

In 1988, the now inactive Guam War Reparations Commission documented 3,365 unresolved claims. There are potentially 5,000 additional unresolved claims. In 1946, the United States provided more than \$390 million in reparations to the Philippines, and more than \$10 million to the Micronesian Islands in 1971 for atrocities inflicted by Japan.

In addition, the United States provided more than \$2 billion in postwar aid to Japan from 1946 to 1951. Further, the United States government liquidated more than \$84 million in Japanese assets in the United States during the war for the specific purpose of compensating claims of its citizens and nationals. The United States did not invoke its authority to seize more assets from Japan under Article 14 of the Treaty of Peace, as other Allied Powers had done. The United States, however, did close the door on the claims of the people of Guam.

A companion measure to my bill, H.R. 755, was introduced in the House of Representatives by Representative ROBERT UNDERWOOD. The issue of reparations for Guam is not a new one for the people of Guam and for the United States Congress. It has been consistently raised by the Guamanian government through local enactments of legislative bills and resolutions, and discussed with Congressional leaders over the years.

The Guam War Restitution Act cannot fully compensate or erase the atrocities inflicted upon Guam and its people during the occupation by the Japanese military. However, passage of this Act would recognize our government's moral obligation to Guam, and bring justice to the people of Guam for the atrocities and suffering they endured during World War II. I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of my bill be inserted in the RECORD.

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

S. 524

*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 "Guam War Restitution Act".

**SEC. 2. AMENDMENT TO ORGANIC ACT OF GUAM TO PROVIDE RESTITUTION.**

The Organic Act of Guam (48 U.S.C. 1421 et seq.) is amended by adding at the end the following new section:

**"SEC. 35. RECOGNITION OF DEMONSTRATED LOYALTY OF GUAM TO UNITED STATES, AND SUFFERING AND DEPRIVATION ARISING THEREFROM, DURING WORLD WAR II.**

"(a) DEFINITIONS.—For purposes of this section:

"(1) AWARD.—The term 'award' means the amount of compensation payable under subsection (d)(2).

"(2) BENEFIT.—The term 'benefit' means the amount of compensation payable under subsection (d)(3).

"(3) COMMISSION.—The term 'Commission' means the Guam Trust Fund Commission established by subsection (f).

"(4) COMPENSABLE INJURY.—The term 'compensable injury' means one of the following three categories of injury incurred during and as a result of World War II:

"(A) Death.

"(B) Personal injury (as defined by the Commission).

"(C) Forced labor, forced march, or internment.

"(5) GUAMANIAN.—The term 'Guamanian' means any person who—

"(A) resided in the territory of Guam during any portion of the period beginning on December 8, 1941, and ending on August 10, 1944, and

"(B) was a United States citizen or national during such portion.

"(6) PROOF.—The term 'proof' relative to compensable injury means any one of the following, if determined by the Commission to be valid:

"(A) An affidavit by a witness to such compensable injury;

"(B) A statement, attesting to compensable injury, which is—

"(i) offered as oral history collected for academic, historic preservation, or journalistic purposes;

"(ii) made before a committee of the Guam legislature;

"(iii) made in support of a claim filed with the Guam War Reparations Commission;

"(iv) filed with a private Guam war claims advocate; or

"(v) made in a claim pursuant to the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582).

"(7) TRUST FUND.—The term 'Trust Fund' means the Guam Trust Fund established by subsection (e).

"(b) REQUIREMENTS FOR CLAIMS AND GENERAL DUTIES OF COMMISSION—

"(1) REQUIRED INFORMATION FOR CLAIMS.—Each claim for an award or benefit under this section shall be made under oath and shall include—

"(A) the name and age of the claimant;

"(B) the village in which the individual who suffered the compensable injury which is the basis for the claim resided at the time the compensable injury occurred;

"(C) the approximate date or dates on which the compensable injury occurred;

"(D) a brief description of the compensable injury which is the basis for the claim;

"(E) the circumstances leading up to the compensable injury; and

"(F) in the case of a claim for a benefit, proof of the relationship of the claimant to the relevant decedent.

"(2) GENERAL DUTIES OF THE COMMISSION TO PROCESS CLAIMS.—With respect to each claim filed under this section, the Commission shall determine whether the claimant is eligible for an award or benefit under this section and, if so, shall certify the claim for payment in accordance with subsection (d).

"(3) TIME LIMITATION.—With respect to each claim submitted under this section, the Commission shall act expeditiously, but in no event later than 1 year after the receipt of the claim by the Commission, to fulfill the requirements of paragraph (2) regarding the claim.

"(4) DIRECT RECEIPT OF PROOF FROM PUBLIC CLAIMS FILES PERMITTED.—The Commission may receive proof of a compensable injury directly from the Governor of Guam, or the Federal custodian of an original claim filed with respect to the injury pursuant to the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582), if such proof is contained in the respective public records of the Governor or the custodian.

"(c) ELIGIBILITY.—

"(1) ELIGIBILITY FOR AWARDS.—A claimant shall be eligible for an award under this section if the claimant meets each of the following criteria:

"(A) The claimant is—

"(i) a living Guamanian who personally received the compensable injury that is the basis for the claim, or

"(ii) the heir or next of kin of a decedent Guamanian, in the case of a claim with respect to which the compensable injury is death.

"(B) The claimant meets the requirements of paragraph (3).

"(2) ELIGIBILITY FOR BENEFITS.—A claimant shall be eligible for a benefit under this section if the claimant meets each of the following criteria:

"(A) The claimant is the heir or next of kin of a decedent Guamanian who personally received the compensable injury that is the basis for the claim, and the claim is made with respect to a compensable injury other than death.

"(B) The claimant meets the requirements of paragraph (3).

"(3) GENERAL REQUIREMENTS FOR ELIGIBILITY.—A claimant meets the requirements of this paragraph if the claimant meets each of the following criteria:

"(A) The claimant files a claim with the Commission regarding a compensable injury and containing all of the information required by subsection (b)(1).

"(B) The claimant furnishes proof of the compensable injury.

"(C) By such procedures as the Commission may prescribe, the claimant files a claim under this section not later than 1 year after the date of the appointment of the ninth member of the Commission.

"(4) LIMITATION ON ELIGIBILITY FOR AWARDS AND BENEFITS—

"(A) AWARDS.—

"(i) No claimant may receive more than 1 award under this section and not more than 1 award may be paid under this section with respect to each decedent described in paragraph (1)(A)(ii).

"(ii) Each award shall consist of only 1 of the amounts referred to in subsection (d)(2).

"(B) BENEFITS.—

"(i) Not more than 1 benefit may be paid under this Act with respect to each decedent described in paragraph (2)(A).

"(ii) Each benefit shall consist of only 1 of the amounts referred to in subsection (d)(3).

"(d) PAYMENTS.—

"(1) CERTIFICATION.—The Commission shall certify for payment all awards and benefits

that the Commission determines are payable under this section.

“(2) AWARDS.—The Commission shall pay from the Trust Fund 1 of the following amounts as an award for each claim with respect to which a claimant is determined to be eligible under subsection (c)(1):

“(A) \$20,000 if the claim is based on death.

“(B) \$7,000 if the claim is based on personal injury.

“(C) \$5,000 if the claim is based on forced labor, forced march, or internment and is not based on personal injury.

“(3) BENEFITS.—The Commission shall pay from the Trust Fund 1 of the following amounts as a benefit with respect to each claim for which a claimant is determined eligible under subsection (c)(2):

“(A) \$7,000 if the claim is based on personal injury.

“(B) \$5,000 if the claim is based on forced labor, forced march, or internment and is not based on personal injury.

“(4) REDUCTION OF AMOUNT TO COORDINATE WITH PREVIOUS CLAIMS.—The amount required to be paid under paragraph (2) or (3) for a claim with respect to any Guamanian shall be reduced by any amount paid under the first section of the Act of November 15, 1945 (Chapter 483; 59 Stat. 582) with respect to such Guamanian.

“(5) FORM OF PAYMENT.—

“(A) AWARDS.—In the case of a claim for an award, payment under this subsection shall be made in cash to the claimant, except as provided in paragraph (6).

“(B) BENEFITS.—In the case of a claim for a benefit—

“(i) IN GENERAL.—Payment under this subsection shall consist of—

“(I) provision of a scholarship;

“(II) payment of medical expenses; or

“(III) a grant for first-time home ownership.

“(ii) METHOD OF PAYMENT.—Payment of cash under this subsection may not be made directly to a claimant, but may be made to a service provider, seller of goods or services, or other person in order to provide to a claimant (or other person, as provided in paragraph (6)) a benefit referred to in subparagraph (B).

“(C) DEVELOPMENT OF PROCEDURES.—The Commission shall develop and implement procedures to carry out this paragraph.

“(6) PAYMENTS ON CLAIMS WITH RESPECT TO SAME DECEDENT.—

“(A) AWARDS.—In the case of a claim based on the compensable injury of death, payment of an award under this section shall be divided, as provided in the probate laws of Guam, among the heirs or next of kin of the decedent who file claims for such division by such procedures as the Commission may prescribe.

“(B) INDIVIDUALS PROVING CONSANGUINITY WITH CLAIMANTS FOR BENEFITS.—Each individual who proves consanguinity with a claimant who has met each of the criteria specified in subsection (c)(2) shall be entitled to receive an equal share of the benefit accruing under this section with respect to the claim of such claimant if the individual files a claim with the Commission by such procedures as the Commission may prescribe.

“(7) ORDER OF PAYMENTS.—The Commission shall endeavor to make payments under this section with respect to awards before making such payments with respect to benefits and, when making payments with respect to awards or benefits, respectively, to make payments to eligible individuals in the order of date of birth (the oldest individual on the date of the enactment of this Act, or if applicable, the survivors of that individual, receiving payment first) until all eligible individuals have received payment in full.

“(8) REFUSAL TO ACCEPT PAYMENT.—If a claimant refuses to accept a payment made or offered under paragraph (2) or (3) with respect to a claim filed under this section—

“(A) the amount of the refused payment, if withdrawn from the Trust Fund for purposes of making the payment, shall be returned to the Trust Fund; and

“(B) no payment may be made under this section to such claimant at any future date with respect to the claim.

“(9) CLARIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Awards paid to eligible claimants—

“(A) shall be treated for purposes of the internal revenue laws of the United States as damages received on account of personal injuries or sickness; and

“(B) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

“(e) GUAM TRUST FUND.—

“(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Guam Trust Fund, which shall be administered by the Secretary of the Treasury.

“(2) INVESTMENTS.—Amounts in the Trust Fund shall be invested in accordance with section 9702 of title 31, United States Code.

“(3) USES.—Amounts in the Trust Fund shall be available only for disbursement by the Commission in accordance with subsection (f).

“(4) DISPOSITION OF FUNDS UPON TERMINATION.—If all of the amounts in the Trust Fund have not been obligated or expended by the date of the termination of the Commission, investments of amounts in the Trust Fund shall be liquidated, the receipts of such liquidation shall be deposited in the Trust Fund, and any unobligated funds remaining in the Trust Fund shall be given to the University of Guam, with the conditions that—

“(A) the funds are invested as described in paragraph (2);

“(B) the funds are used for scholarships to be known as Guam World War II Loyalty Scholarships, for claimants described in paragraph (1) or (2) of subsection (c) or in subsection (d)(6), or for such scholarships for the descendants of such claimants; and

“(C) as the University determines appropriate, the University shall endeavor to award the scholarships referred to in subparagraph (B) in a manner that permits the award of the largest possible number of scholarships over the longest possible period of time.

“(f) GUAM TRUST FUND COMMISSION.—

“(1) ESTABLISHMENT.—There is established the Guam Trust Fund Commission, which shall be responsible for making disbursements from the Guam Trust Fund in the manner provided in this section.

“(2) USE OF GUAM TRUST FUND.—The Commission may make disbursements from the Guam Trust Fund only for the following uses:

“(A) To make payments, under subsection (d), of awards and benefits.

“(B) To sponsor research and public educational activities so that the events surrounding the wartime experiences and losses of the Guamanian people will be remembered, and so that the causes and circumstances of this event and similar events may be illuminated and understood.

“(C) To pay reasonable administrative expenses of the Commission, including expenses incurred under paragraphs (3)(C), (4), and (5).

“(3) MEMBERSHIP.—

“(A) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members who are not officers or employees of the United States Government and who are appointed

by the President from recommendations made by the Governor of Guam.

“(B) TERMS.—

“(i) Initial members of the Commission shall be appointed for initial terms of 3 years, and subsequent terms shall be of a length determined pursuant to subparagraph (F).

“(ii) Any member of the Commission who is appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

“(C) PROHIBITION OF COMPENSATION OTHER THAN EXPENSES.—Members of the Commission shall serve without pay as such, except that members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission in the same manner that persons employed intermittently in the United States Government are allowed expenses under section 5703 of title 5, United States Code.

“(D) QUORUM.—5 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

“(E) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members of the Commission.

“(F) SUBSEQUENT APPOINTMENTS.—

“(i) Upon the expiration of the term of each member of the Commission, the President shall reappoint the member (or appoint another individual to replace the member) if the President determines, after consideration of the reports submitted to the President by the Commission under this section, that there are sufficient funds in the Trust Fund for the present and future administrative costs of the Commission and for the payment of further awards and benefits for which claims have been or may be filed under this title.

“(ii) Members appointed under clause (i) shall be appointed for a term of a length that the President determines to be appropriate, but the length of such term shall not exceed 3 years.

“(4) STAFF AND SERVICES.—

“(A) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Commission.

“(B) ADDITIONAL STAFF.—The Commission may appoint and fix the pay of such additional staff as it may require.

“(C) INAPPLICABILITY OF CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE.—The Director and the additional staff of the Commission may be appointed without regard to section 5311 of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, except that the compensation of any employee of the Commission may not exceed a rate equivalent to the minimum rate of basic pay payable for GS-15 of the General Schedule under section 5332(a) of such title.

“(D) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

“(5) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of funds, services, or property for uses referred to in paragraph (2). The Commission may deposit such gifts or donations, or the proceeds from such gifts or donations, into the Trust Fund.

“(6) TERMINATION.—The Commission shall terminate on the earlier of—

“(A) the expiration of the 6-year period beginning on the date of the appointment of the first member of the Commission; or

“(B) the date on which the Commission submits to the Congress a certification that all claims certified for payment under this section are paid in full and no further claims are expected to be so certified.

“(g) NOTICE.—Not later than 90 days after the appointment of the ninth member of the Commission, the Commission shall give public notice in the territory of Guam and such other places as the Commission deems appropriate of the time limitation within which claims may be filed under this section. The Commission shall ensure that the provisions of this section are widely published in the territory of Guam and such other places as the Commission deems appropriate, and the Commission shall make every effort both to advise promptly all individuals who may be entitled to file claims under the provisions of this title and to assist such individuals in the preparation and filing of their claims.

“(h) REPORTS.—

“(1) COMPENSATION AND CLAIMS.—Not later than 12 months after the formation of the Commission, and each year thereafter for which the Commission is in existence, the Commission shall submit to the Congress, the President, and the Governor of Guam a report containing a determination of the specific amount of compensation necessary to fully carry out this section, the expected amount of receipts to the Trust Fund, and all payments made by the Commission under this section. The report shall also include, with respect to the year which the report concerns—

“(A) a list of all claims, categorized by compensable injury, which were determined to be eligible for an award or benefit under this section, and a list of all claims, categorized by compensable injury, which were certified for payment under this section; and

“(B) a list of all claims, categorized by compensable injury, which were determined not to be eligible for an award or benefit under this section, and a brief explanation of the reason therefor.

“(2) ANNUAL OPERATIONS AND STATUS OF TRUST FUND.—Beginning with the first full fiscal year ending after submission of the first report required by paragraph (1), and annually thereafter with respect to each fiscal year in which the Commission is in existence, the Commission shall submit a report to Congress, the President, and the Governor of Guam concerning the operations of the Commission under this section and the status of the Trust Fund. Each such report shall be submitted not later than January 15th of the first calendar year beginning after the end of the fiscal year which the report concerns.

“(3) FINAL AWARD REPORT.—After all awards have been paid to eligible claimants, the Commission shall submit a report to the Congress, the President, and the Governor of Guam certifying—

“(A) the total amount of compensation paid as awards under this section, broken down by category of compensable injury; and

“(B) the status of the Trust Fund and the amount of any existing balance thereof.

“(4) FINAL BENEFITS REPORT.—After all benefits have been paid to eligible claimants, the Commission shall submit a report to the Congress, the President, and the Governor of Guam certifying—

“(A) the total amount of compensation paid as benefits under this section, broken down by category of compensable injury; and

“(B) the final status of the Trust Fund and the amount of any existing balance thereof.

“(i) LIMITATION OF AGENT AND ATTORNEY FEES.—It shall be unlawful for an amount exceeding 5 percent of any payment required by this section with respect to an award or benefit to be paid to or received by any agent or attorney for any service rendered in connection with the payment. Any person who violates this section shall be fined under title 18, United States Code, or imprisoned for not more than 1 year, or both.

“(j) DISCLAIMER.—No provision of this section shall constitute an obligation for the United States to pay any claim arising out of war. The compensation provided in this section is ex gratia in nature and intended solely as a means of recognizing the demonstrated loyalty of the people of Guam to the United States, and the suffering and deprivation arising therefrom, during World War II.

“(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, from sums appropriated to the Department of the Interior, such sums as may be necessary to carry out this section, including the administrative responsibilities of the Commission for the 36-month period beginning on the date of the appointment of the ninth member of the Commission. Amounts appropriated pursuant to this section are authorized to remain available until expended.”

### SEC. 3. RECOMMENDATION OF FUNDING MEASURES.

Not later than 1 year after the date of the submission of the first report submitted under section 35(h)(1) of the Organic Act of Guam (as added by section 2 of this Act), the President shall submit to the Congress a list of recommended spending cuts or other measures which, if implemented, would generate sufficient savings or income, during the first 5 fiscal years beginning after the date of the submission of such list, to provide the amount of compensation necessary to fully carry out this section (as determined in such first report).

By Mr. WARNER:

S. 525. A bill to require the Secretary of the Treasury to redesign the \$1 bill so as to incorporate the preamble to the Constitution of the United States, the Bill of Rights, and a list of the Articles of the Constitution on the reverse side of such currency; to the Committee on Banking, Housing, and Urban Affairs.

#### LIBERTY DOLLAR BILL ACT

Mr. WARNER. Mr. President, I rise today to reintroduce the Liberty Dollar Bill Act.

Last year, students at Liberty Middle School in Ashland, Virginia came up with an idea. The measure I introduce today simply implements their vision. This bill directs the Treasury to place the actual language from the Constitution on the back of the one dollar bill.

Our founding fathers met in 1787, to write what would become the model for all modern democracies—the Constitution. Washington, Madison, Franklin, Hamilton and many other great Americans met for four months that year to ignite history's greatest light of government.

They argued, fought, and compromised to create a lasting democracy, built on a philosophy found in the preamble of the constitution. And they protected this philosophy and these ideals by creating three branches of

government and divisions of power between the federal and state governments found in the articles and the amendments of the Constitution.

Although our currency celebrates the men who first drafted the Constitution, it doesn't celebrate their most noble achievement. Shouldn't this greatest of American achievements be in the hands of all Americans?

All presidents, likewise all public officers, swear to “preserve, protect and defend” the Constitution. No country can survive if it loses its philosophical moorings. The freedoms and liberties we enjoy give substance, value and meaning to the laws by which we live. Our Nation's philosophy can be taken for granted in the daily business of lawmaking. Yet we can hear in John F. Kennedy's inaugural address that we do not defend America's laws, we defend its philosophy—a philosophy embodied in the Constitution.

Seventy-five percent of Americans say that “The Constitution is important to them, makes them proud, and is relevant to their lives.”

So important is this document that we built the Archives in Washington to house and safeguard it. Hundreds of thousands go there each year to see it. However, ninety-four percent of Americans don't know all of the rights and freedoms found in the First Amendment. Sixty-two percent of Americans can't name our three branches of government.

Six hundred thousand legal immigrants come to America each year. Often their first sight of America is the Statue of Liberty, holding high her torch, symbolizing our light and our freedom. Many of these immigrants become American citizens by the naturalization process and learn more about the Constitution than many natural born citizens.

If America's most patriotic symbol—the Constitution—were on the back of the one dollar bill, wouldn't we all know more about our Government? The Constitution should be in the hands of every American.

Our Constitution is a beacon of light for the world. People everywhere should be able to hold up our one dollar bill as a symbol of the freedom of modern democracy.

I am proud to join my colleague in the House of Representatives, Chairman TOM BLILEY, and reintroduce the companion legislation in the Senate. The Liberty Dollar Bill Act directs the Secretary of the Treasury to incorporate the preamble to the Constitution of the United States, the Bill of Rights, and a list of the Articles of the Constitution on the reverse side of the one dollar bill.

Mr. President, I agree with the students of Liberty Middle School. The Constitution belongs to the people. It should be in their hands.

I want to commend the students of Liberty Middle School and their teacher, Mr. Randy Wright for their contribution to our Nation. I hope all my

colleagues in the Senate will see the wisdom of these students and join me as a cosponsor of this legislation. Let the Nation hear that the younger generation can provide ideas that become the laws of our land.

By Mr. GRAHAM (for himself, Mr. GRASSLEY, Mr. DEWINE, Mr. TORRICELLI, Mrs. HUTCHISON, and Mr. KERREY):

S. 526. A bill to amend the Internal Revenue Code of 1986 to allow issuance of tax-exempt private activity bonds to finance public-private partnership activities relating to school facilities in public elementary and secondary schools, and for other purposes; to the Committee on Finance.

THE PUBLIC SCHOOL CONSTRUCTION  
PARTNERSHIP ACT

Mr. GRAHAM. Mr. President, I rise today along with Senators GRASSLEY, KERREY, DEWINE, TORRICELLI, and HUTCHISON to introduce the Public School Construction Partnership Act. As teachers, students, parents, and school administrators know, the United States faces a school infrastructure crisis. Many of our schools are more than 50 years old and crumbling, and the General Accounting Office estimates that it will cost about \$112 billion to bring them into good repair. Moreover, this estimate does not take into account the need for new construction. The U.S. Department of Education projects that some 1.9 million more students will be entering schools in the next 10 years. At current prices, it will cost about \$73 billion to build the new schools needed to educate this growing student population. Mr. President, I might add that my own State is gaining 60,000 new students each year. By the end of the decade, Florida's student enrollment will have increased 25 percent more than the population as a whole.

Education is rightfully a state and local matter, but the federal government can play a helpful, non-intrusive role in assisting communities overwhelmed by explosive increases in student enrollment. We at the federal level should help empower local school districts to find innovative, cost effective ways to finance new schools and repair aging ones.

The bill I am introducing today with Senator GRASSLEY provides new flexibility to state and local efforts to finance new schools and repair older ones. I believe that we should be providing a "cafeteria plan" of options to choose from in order to enable local and state governments to have a variety of financing tools available to them. An innovative means of financing the building or renovation of a school in an urban area like Miami won't necessarily be the best option for a rural town in Iowa. Therefore, our legislation provides four different alternatives to ease the burden of financing public school construction.

One alternative is to add educational facilities to the list of 12 types of fa-

cilities that can use private activity bonds. As you can see, these bonds are used to finance a wide range of public projects: from airports and mass commuting facilities, to qualified residential rental projects and environmental enhancements of hydroelectric generating facilities.

The importance of adding public educational facilities to this list is that these bonds would be tax exempt. And I emphasize the word public because private non-profit elementary and secondary schools already have the ability to issue tax-exempt facility bonds. Public schools should have the same tax treatment. Our legislation gives public schools parity with private schools.

The public/private partnership in school construction through the use of private activity bonds is already being used in the Canadian Province of Nova Scotia. Here is how it works: a private corporation builds the school and leases it to the school district at a reduced rate. The private entity supplements the cost of the building by leasing it for other uses during non-school hours.

This approach has been a success. According to a study by Ron Utt at the Heritage Foundation, 41 new schools have either been completed or approved for construction under the Public/Private Partnership Program. In the next three years, Nova Scotia expects to replace 10 percent of its schools through such partnerships.

I am optimistic that enabling communities in the United States to have the same opportunity will foster the same results.

Another portion of this legislation would help relieve some of the burdens on small and rural school districts.

Current law relieves small issuers of tax-exempt bonds for qualified school construction from onerous federal arbitrage regulations, but more relief is needed. The calculations required to determine the amount of arbitrage rebate are extremely complex and often require that a local government hire an outside consultant. Despite the trouble and expense of compliance, rebate amounts are usually quite small. Local governments sometimes spend much more to comply with the rebate rules than the amount actually rebated to the Treasury.

This legislation would permit school districts to keep funds earned on bond proceeds instead of reimbursing the Treasury Department if the bonds offered by the district totalled less than \$15 million that year, or if the bonds are spent within four years.

Our legislation would also increase the amount of bonds banks can hold and still receive tax exempt status. Currently, banks may deduct their interest expense for loans if the bonds are less than \$10 million in a one year period. We would increase that limit to \$25 million, allowing school bonds to be bought directly by the banks without having to undertake the complexities

of accessing the public capital markets.

Changing these current tax laws would help local school districts throughout the United States. Our legislation would foster even more innovative approaches to finance the building and refurbishment of our public schools. Such public-private partnerships would speed construction of new schools and reduce costs to communities.

Mr. GRASSLEY. Mr. President, today, I am joining my colleague from Florida, Senator GRAHAM, in introducing the School Construction Financing Improvement Act of 1999.

The single most important source of funding for investment in public school construction and rehabilitation is the tax-exempt bond market. Tax-exempt bonds finance approximately 90 percent of the nation's investment in public schools. In my home state of Iowa over \$625 million in tax-exempt bonds were issued to school districts in 1998 alone.

There is a well-recognized need throughout the country for billions of additional new dollars in school construction and rehabilitation. A report from the General Accounting Office says urban schools alone need \$112 billion in repairs over three years to bring their buildings back into working order. That same study says about 14 million children attend U.S. schools in need of extensive repairs, and about 7 million attend schools with life threatening safety code violations.

American schoolchildren attending schools with leaky roofs, inadequate bathrooms, poor air quality, and unreliable fire protection equipment is an unacceptable state of affairs. We need to step up to the plate and address this issue, not only promptly, but also properly. The administration's proposed use of tax credit bonds is inherently unworkable and inefficient. The school districts in states all across this land need greater flexibility not more federal regulations and controls.

Tax-exempt bonds have proven to be an effective financial instrument to fund school rehabilitation and construction. Therefore, it is appropriate and necessary to examine tax code limitations on the use of tax-exempt bonds for schools and to consider ways to amend the code to give school districts even greater access to the capital they earnestly need and deserve. Let's expand on something that works.

The administration has proposed policy initiatives to enhance and expand the use of tax credit bonds called "Qualified Zone Academy Bonds" or QZABs. However the QZAB program has proven incapable of attracting investors due to inherent flaws in tax credit bonds that make them extremely illiquid and unpredictable investments, and specific limitations on the use of these bonds imposed by the federal government on the states. These significant and crippling limitations include the exclusion of individual investors from purchasing QZABs,

the requirement that school districts secure hard to come by "private business contributions", and prohibitions on the use of QZABs to fund new school construction projects.

Experience and study has shown that tax exempt bonds are a more workable, more efficient, and more popular alternative to QZABs. This bill reflects my belief that the wisest course to achieving the goal of providing schools with necessary capital to build and rehabilitate our nation's schools is to continue refining tax code limitations on the use of tax-exempt bonds.

The legislation Senator GRAHAM and I are introducing today is designed to narrowly target the use of tax-exempt bonds to school construction alone and do not change any tax code provisions designed to prevent abuse of bond issuance authority.

The first provision would allow school districts to make use of public-private partnerships in issuing tax-exempt bonds for public school construction or rehabilitation. The bonds would be exempt from the annual state volume caps. This will allow schools to leverage private investment in school facilities and would encourage school districts to partner with private investors in new and creative ways.

The second provision addresses the current two year construction spend-down exemption in arbitrage rebate regulations. This policy allows the exemption of bonds from arbitrage rebate if the issuer spends virtually all its bond proceeds within two years of the time these bonds for construction projects are issued. We recommend an extension of this exemption from two years to four years for school bonds. Often the two year limit is insufficient to cover major construction projects, especially when multiple projects are funded from a single bond issue. The extension of time limit on the exemption provision will also improve the flexibility of school districts that use bonds and relive the school bond issuer from superfluous and burdensome tax compliance costs.

The second provision would also raise from \$10 million to \$15 million the volume of school construction bonds a small school district could issue each year and still qualify for the small-issuer arbitrage rebate exemption. This provision expands the benefits of the small-issuer rebate exemption to a much broader universe of small school bond issuers.

The third provision of the bill would permit banks to invest in certain qualified tax-exempt school construction bonds without penalty. Before the Tax Reform Act of 1986 that imposed a tax penalty on banks that earn tax-exempt interest, commercial banks were one of the most active groups of investors in the municipal bond market. This provision would directly reduce the cost of borrowing for new school construction and would result in more investment in public schools.

I urge my colleagues to join Senator GRAHAM and myself in trying to help

schools receive the crucial funds necessary to build and repair America's schools.

By Mr. HATCH:

S. 527. A bill to amend the Harmonized Tariff Schedule of the United States to suspend temporarily the duty with respect to the personal effects of participants in certain athletic events; to the Committee on Finance.

TREATMENT OF PERSONAL EFFECTS OF PARTICIPANTS IN CERTAIN WORLD ATHLETIC EVENTS

Mr. HATCH. Mr. President, I am introducing today an amendment to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States. My amendment would allow athletes participating in world events, such as the Salt Lake 2002 Winter Olympic Games, to bring into the United States, duty free, such personal effects as equipment expressly used in the sporting events, and then re-exported with departing athletes at the termination of the events.

This bill is needed to relieve both Customs officials and event participants of immense amounts of documentation required in the past for such exceptions to Customs laws and practices. However, this amendment does not exempt such items from inspection by Customs officials, inspections which can be made entirely on their discretion, nor does it allow the entry of items barred under current law. This same bill, which I introduced in the prior, 105th Congress was favorably reported out by both the House Ways and Means Committee and the Senate Finance Committee, and incorporated in the Omnibus Trade Bill which failed passage.

By Mr. SPECTER:

S. 528. A bill to provide for a private right of action in the case of injury from the importation of certain dumped and subsidized merchandise; to the Committee on Finance.

UNFAIR FOREIGN COMPETITION ACT OF 1999

Mr. SPECTER. Mr. President, I have sought recognition for the purpose of introducing the Unfair Foreign Competition Act of 1999. This legislation is in response to a crisis facing the steel industry in the United States as a result of subsidized and dumped goods coming into the United States from a variety of countries—from Russia, from Brazil, from Japan, from Indonesia—where steel is being sold in the United States at far under cost of production and far under the price steel is being sold for in those countries.

We know the financial problems which are present now in Russia where they are very anxious to have dollars and are selling steel in America for anything, virtually, that they can get for it. A similar problem has arisen with respect to other countries.

The steel industry has modernized, spending some \$50 billion, and simply cannot compete with this kind of subsidy on dumped goods. Thousands of steelworkers are losing their jobs. A

few years back there were 500,000 steelworkers in the United States; now that number is down to about 160,000, and more are going daily and weekly as a result of this dumped steel coming into the United States.

The existing laws are totally insufficient. When the administrative procedures are taken under existing law, it takes months. For example, complaints filed in September of 1998 will not be heard, adjudicated, decided, until May. Then there will be some retroactive duty imposition. Meanwhile, thousands of steelworkers will be losing their jobs. The steel industry will be suffering tremendous losses from which it cannot recover.

Beyond the issue of the industry itself and the workers, we have the paramount issue on national defense, the industrial base for the United States.

My legislation would provide a private right of action so that injured parties could go into a Federal court, into a court of equity, and get immediate relief. This legislation is similar to legislation which I have introduced as far back as 1982 where I sought injunctive relief. It now appears that injunctive relief is not consistent with GATT, although GATT international trade laws are consistent with U.S. trade laws which prohibit subsidized or dumped goods from coming into the United States.

The remedy which is provided in this bill would be that tariffs would be imposed at the direction of the Federal court as the form of equitable relief, and these tariffs would then be paid over to the damaged parties—to the steelworkers who had sustained damages as a result of losing their jobs and to the steel companies which had sustained damages from loss of sales as a result of this illegal steel coming into the United States which is dumped or subsidized.

There have been rallies held across the United States and on the west end of the Capitol not too long ago. The Senate Steel Caucus, which I have the privilege to chair, has had a series of hearings, including one in Pittsburgh on February 18.

There are a variety of legislative proposals now pending before the Congress: Tariffs, changing the U.S. law to conform to international laws to make it easier to get relief under 201 and 301. But there is nothing on the books which would be as effective as the kind of equitable relief which would be provided by this private right of action. There is litigation pending now in the Federal court in Ohio brought by Wheeling-Pittsburgh where, after I conferred with the officials of that company, they brought an equity action in the State courts seeking equitable relief, and it has since been transferred to the Federal courts. I believe that cause of action, that claim for relief in the Federal court, is well founded.

This legislation would remove any doubt that the injured parties—the

workers, the companies, injured parties—would have a right to go into Federal court to get this relief on a prompt basis.

In a court of equity, as the distinguished Presiding Officer knows, having litigated extensively himself, it is possible to get a temporary restraining order, a TRO, on an ex parte basis by the filing of affidavits. When that is done, then there has to be a hearing within 5 days where the moving party then seeks a preliminary injunction. Then the court hears the evidence and makes a determination as to a preliminary injunction, and then further hearings to make a determination as to a permanent injunction. I outline that very, very briefly to signify the speed that you can have action if you go into the Federal court.

A court of equity is designed to provide prompt relief upon the showing of the requisite proofs. The difficulty with waiting for administrative action, action by the executive branch, is that we know as a matter of experience that the executive branch defers to foreign policy or defense policy.

There is grave concern in the administration, expressed by a variety of administration officials, about what will happen to the Russian economy. Of course, there are grounds for concern about the Russian economy but not sufficient concerns so as to override what will happen to the American steel industry. What happens to the Russians is important but, frankly, not as important to this Senator as what happens to Pennsylvanians or to people in West Virginia or to people in Indiana, Ohio, or Illinois—to mention only a few of the States which are impacted by these subsidized and dumped goods.

I am reminded, Mr. President, about an event back in 1984 when there was a favorable ruling for the steel industry from the International Trade Commission. The President had the authority to override that determination. My then colleague Senator Heinz and I made the rounds of the International Trade Representative, William Brock, and of the Secretary of Commerce, Malcolm Baldrige, and we found great sympathy with having the laws of the United States and the international trade laws enforced. When we talked to the Secretary of State and the Secretary of Defense, they were more concerned about their problems—foreign policy and defense policy. Ultimately, the President overruled the International Trade Commission to the detriment of the American steel industry. Regrettably, that is what happens.

We have had meetings of the Steel Caucus with the key officials of the executive branch. When it comes to the Secretary of Commerce or the Trade Representative, there has been a certain amount of sympathy for the position of the steel industry.

What we need to do is to take this issue out of international politics—politics at the highest level, where there are concerns for foreign policy or de-

fense policy—and move it into court, where the rule of law will govern and where, on a showing that there is a violation of U.S. trade laws, a showing of a violation of international trade laws, and there is a remedy which is GATT consistent, which is to impose tariffs. The approach of having the tariffs then paid over to the damaged parties is an idea which was originated by the distinguished Senator from Ohio, Senator DEWINE, on legislation which he has introduced.

When we had sought injunctive relief, it had been sufficient just to stop the steel from coming into the United States immediately, and then there would have been no further damage. That is not GATT consistent. It is GATT consistent to have duties imposed, and then if any steel comes in, those duties ought to be a deterrent to stop dumped and subsidized steel from coming into the United States. But to the extent any further steel comes in, those duties would be collected by the Treasury and then paid over to the injured parties—the steelworkers who have lost wages or lost their jobs, or the industry which has been damaged by this illegal dumping and this illegal subsidy.

Mr. President, I have sought recognition to reintroduce legislation to provide for a private right of action for an injured party to sue in Federal court to stop goods from coming into this country which are subsidized, dumped or otherwise sold in violation of our trade laws. My legislation, the Unfair Foreign Competition Act of 1999, is based on legislation I have introduced since 1982 and most recently during the 103rd Congress in 1993.

I have revised the legislation so that at the conclusion of the case and upon the finding of liability, the court will direct the Customs Service to assess an antidumping duty on the dumped or subsidized product. Duties collected will be distributed to steelworkers for damages sustained from loss of wages resulting from loss of jobs due to illegal imports, and the affected domestic producers of the product for qualifying expenditures which may include equipment, research and development, personnel training, acquisition of technology, health care benefits, pension benefits, environmental equipment, training or technology, acquisition of raw materials, or borrowed working capital.

I am introducing this legislation to respond to the substantial dumping of foreign goods on the U.S. market, particularly steel. As Hank Barnette, chief executive officer of Bethlehem Steel, wrote as early as in an August 6, 1998 op-ed in the Washington Times, the United States has become “The Dumping Ground” for foreign steel. He noted that Russia has become the world’s number one steel exporting nation and that China is now the world’s number one steel-producing nation, while enormous subsidies to foreign steel. As one example, Mr. Barnette cited the Com-

merce Department’s revelation that Russia, one of the world’s least efficient producers, was selling steel plate in the United States at more than 50 percent or \$110 per ton below the constructed cost to make this product, which ultimately costs our steel companies in lost sales and results in fewer jobs for American workers.

As chairman of the Senate Steel Caucus, I am well aware that the current financial crisis in Asia and elsewhere has generated surges in U.S. imports of steel. Recently released statistics by the Department of Commerce note that the year-to-date final statistics through November of 1998 show steel imports of 35.1 million metric tons, an increase of 8.7 million metric tons over the 26.4 million metric tons through November 1997. While the preliminary data on steel imports for December 1998 shows a decrease in imports of hot-rolled steel products, one month is not a trend. In fact, overall steel imports in 1998 were considerably higher than in 1997, and total imports of hot-rolled steel were up 73 percent from 1997 to 1998. The flooding of steel on the U.S. market from Asian countries, as well as countries of the former Soviet Union and Brazil, have led the Senate and House Steel Caucuses to hold joint hearings and receive testimony from steel company executives and union representatives on the growing problems of steel imports and their troubling effect on our economy and our ability to retain high-paying jobs.

I believe in free trade. But the essence of free trade is selling goods at a price equal to the cost of production and a reasonable profit. Where you have dumping—the sale of goods in the United States at prices lower than the price at which such goods are being sold by the producing companies in their own country or in some other country—it is the antithesis of free trade. We have too long sacrificed American industry and American jobs in the name of foreign policy or defense policy, without having the proper enforcement of the laws because the executive branch, whether it is a Democratic administration or a Republican administration, has made concessions for foreign policy and defense interests.

For many years, foreign policy and defense policy have superseded basic fairness on trade policy. I received a comprehensive education on this subject back in 1984 when there was a favorable ruling by the ITC for the American steel industry, but it was subject to review by the President. At that time my colleagues, Senator Heinz and I visited every one of the Cabinet officers in an effort to get support to see to it that International Trade Commission ruling in favor of the American steel industry was upheld. Then-Secretary of Commerce Malcolm Baldrige was favorable, and International Trade Representative Bill Brock was favorable. We received a favorable hearing in all quarters until we spoke with then-Secretary of State Shultz and

then-Secretary of Defense Weinberger who were absolutely opposed to the ITC ruling. President Reagan decided to overrule the ITC, and U.S. trade policy and workers again took second place to foreign policy concerns.

In the current environment, I believe more than ever that it is necessary for an injured industry to have an opportunity to go into Federal court and seek enforcement of America's trade laws, which are currently not being enforced adequately by the executive branch.

The only way to handle these important issues is to see to it that there is a private right of action, which is a time-honored approach in the context of antitrust law. I believe this is absolutely necessary if the steel industry and other U.S. industries subject to unfair foreign competition are to have fairness and to be able to stop foreign subsidized and dumped products from coming into this country.

#### CURRENT ADMINISTRATIVE REMEDIES

I have long been concerned about the export of subsidized or dumped goods to the U.S. market and its impact on U.S. jobs and industries. Even when our government does act aggressively to enforce U.S. trade laws, the process is extremely time consuming. It can take months after filing a dumping action for the Commerce Department to complete its investigations, from the summary investigation to determine the adequacy of the petition, to the formal investigation of the evidence presented. The Commerce Department then issues a preliminary determination that products are being sold in the United States at less than fair value. The Department must then make a final determination, which can consume several more months. In order to secure any relief, though, the International Trade Commission (ITC) must also independently review the case and make a determination about whether the imports materially injure, or threaten to injure, the U.S. industry. If the ITC finds injury or threat of injury, the Commerce Department instructs the Customs Service to collect anti-dumping duties.

In the current hot-rolled carbon steel case currently before the Administration, the petitioners filed on September 30, 1998. The investigation by the Commerce Department's International Trade Administration was not initiated until October 15, 1998. On November 23, 1998, the Commerce Department found "critical circumstances" in the case. Commerce determined that there was a surge in imports from Japan and Russia. This determination, coupled with the preliminary injury decision, allows the Commerce Department to assess duties retroactively 90 days from the preliminary determination. On February 12, 1999, the Department of Commerce determined the preliminary dumping margin for Japan and Brazil. Later, on February 22, a preliminary dumping margin for Russia was determined. The Commerce Department then instructed U.S. Customs

to require deposits or bonds on imported steel from these countries for 90 days prior to the dumping margin determination and for any steel from these countries brought in after the determination. The Department of Commerce is not expected to make a final determination until May 5, 1999; however, the assessment of duties is contingent on a favorable determination on injury to the domestic industry made by the International Trade Commission on June 12, 1999.

Assuming that all decisions are favorable, the petitioning industry will have waited for months before any action is taken to remedy the injury done to the industry and its workers. Therefore, a private right of action is necessary to enable our domestic industries to counter foreign subsidies, dumping, and customs fraud in a timely manner. My bill accomplishes this by providing timely relief by allowing for the recovery of tariffs as a result of the illegal import.

We have seen a long history where American industries have been prejudiced, and American jobs have been lost, due to subsidized and dumped goods coming into this country. There is no adequate remedy at the present time to provide domestic industries with timely relief from the damage caused by such imports.

#### HISTORY OF THE PRIVATE RIGHT OF ACTION LEGISLATION

Since entering the Senate, I have been actively involved on this issue. On March 4, 1982, I introduced S. 2167 to provide a private right of action in Federal courts to enforce existing laws prohibiting illegal dumping or subsidizing of foreign imports. Hearings were held on this bill before the Judiciary Committee on May 24 and June 24, 1982. On December 15, 1982, I offered the text of this bill on the Senate floors as an amendment, which was tabled by a slim margin of 51 to 47.

During the 96th Congress, I reintroduced this legislation as S. 416 on February 3, 1983. The Judiciary Committee held a hearing on this bill on March 21, 1983. I offered the text of S. 418 as an amendment to the Omnibus Tariff and Trade Act of 1984 on September 19, 1984; the amendment was tabled.

During the 99th Congress, I reintroduced this legislation as S. 236; I expanded the scope of this bill to include customs fraud violations and introduced S. 1655 on September 18, 1985, and the Judiciary Committee favorably reported the bill by unanimous voice vote on March 20, 1986. The Finance Subcommittee on International Trade held a hearing on S. 1655 pursuant to a sequential referral agreement. Significant progress was made toward reaching a unanimous consent agreement for full Senate consideration of S. 1655 prior to adjournment of the 99th Congress, but the press of other business prevented its coming to the floor for action.

In the 100th Congress, I reintroduced comprehensive legislation, S. 361, to

provide a private right of action in Federal court to enforce existing laws prohibiting illegal dumping or customs fraud.

I expanded the scope of this bill in S. 1396, which I introduced on June 19, 1987, to revise the subsidy provision to include a private right of action to allow injured American parties to sue in Federal court for injunctive relief against, and monetary damages from, foreign manufacturers and exporters who receive subsidies and any importer related to the manufacturer or exporter. This bill would have provided a comprehensive approach to address three of the most pernicious, unfair export strategies used by foreign companies against American companies: dumping, subsidies, and customs fraud.

During full Senate consideration of the Omnibus Trade and Competitiveness Act (S. 490), I filed the text of S. 1396 as Amendment No. 315 on June 19, 1987, and offered it as an amendment to the trade bill on June 25, 1987. This amendment, however, was tabled. I again filed the text of this bill as an amendment to the Textile and Apparel Trade Act, S. 2662, on September 9, 1988, and to the Technical Corrections Act, S. 2238, on September 29, 1988.

On July 15, 1987, I joined Senator Heinz as an original cosponsor of an amendment to S. 490 to provide a private right of action in the U.S. Court of International Trade for damages from customs fraud. Although the amendment was accepted by the Senate, it unfortunately was dropped in conference.

In the 102nd Congress, I introduced similar legislation, S. 2508, because the Voluntary Restraint Agreements program was allowed to lapse in spite of the fact that no multilateral steel agreement was in place. In fact, as announced by the United States Trade Representative, talks on the steel accord had broken down. I might add that this was somewhat strange. Mr. President, if not incomprehensible. The steel industry had been awaiting an agreement on a multilateral steel accord which would have prevented subsidized and dumped goods from coming into the United States, and then there was a specific recognition by the Trade Representative, that the effort failed. Not to extend the voluntary restraint program at that time was a bit mystifying. In any event, the Judiciary Committee favorably reported S. 2508 by unanimous voice vote on August 12, 1992. Again, the press of other business prevented the Senate from taking up this legislation on the floor.

In the 103rd Congress, I introduced this legislation again, S. 332, in an effort to move the legislative process forward. The legislation was referred to the Judiciary Committee, but once again, the press of Senate business prevented further action on the bill.

#### UNFAIR FOREIGN COMPETITION ACT OF 1999

In the 104th Congress, Senator KOHL and I introduced legislation to criminalize economic espionage, which was

ultimately enacted into law. The bill that I am introducing today, the Unfair Foreign Competition Act of 1999 will help to combat another form of illegality—the illegal subsidization and dumping of foreign products into U.S. markets, which steal jobs from our workers, profits from our companies and economic growth from our economy.

This legislation provides a private right of action in federal courts for individuals or corporations who have been injured by dumping, subsidies, or customs fraud violations. The bill will enable industries to seek relief through the Federal courts to halt the illegal importation of products.

There is nothing like the vigor of private plaintiffs when it comes to the enforcement of our trade laws. We need vigorous private enforcement—that this bill would spur—if we are to successfully chart a course between the grave dangers of increased protectionism and the certain peril which would result from unabated illegal foreign imports.

I believe the bill I am introducing today would have an important deterrent effect on the practices of our foreign trading partners. Under this bill, an injured party could file suit in the U.S. federal district court for the District of Columbia or the Court of International Trade. If dumping or subsidies and injury are found, the court would then direct the Customs Service to assess duties on future importation of the article in question.

Since current administrative remedies are not consistently and effectively enforced through the Commerce Department and the World Trade Organization, this private right of action is necessary to enforce the spirit of the law.

A reason to support this bill lies in its simplicity. We can enact this legislation immediately without interfering with or precluding more complex set of initiatives. The essence of this bill is to promote enforcement of existing trade laws and agreements, and, therefore, use our existing trade laws as our best defense against unfair foreign practices. My bill will free private enterprise to pursue remedies without delay and put a halt to many discriminatory trade practices.

I ask my colleagues to join me now in supporting this legislation to provide relief to the unfair trade practices which constrain our nation's industry. We should be proud of the many improvements made by our industrial base over the past decade. Our corporations invested capital and the quality of our products has risen dramatically; however, our nation's workers have suffered significant job losses while our corporations have tried to become more lean and competitive. Clearly our business sector and each and every American has participated in and borne the burden of improving our competitive position.

Even these significant advances however, are insufficient to compete in the

face of illegal trade practices such as dumping, subsidies, and customs fraud. The best way to handle these trade issues is to provide a private right of action which will allow U.S. industries the ability to stop foreign subsidies and dumping on the U.S. market in a timely fashion.

Mr. President, I ask unanimous consent the text of the bill be printed in the RECORD.

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

Mr. SPECTER. I thank the Chair and I thank my colleague from Vermont.

#### ADDITIONAL COSPONSORS

S. 7

At the request of Mr. DASCHLE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 7, a bill to modernize public schools for the 21st century.

S. 85

At the request of Mr. BUNNING, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Louisiana [Mr. BREAU] were added as cosponsors of S. 85, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on vaccines to 25 cents per dose.

S. 98

At the request of Mr. MCCAIN, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Alabama [Mr. SESSIONS], and the Senator from Ohio [Mr. DEWINE] were added as cosponsors of S. 98, a bill to authorize appropriations for the Surface Transportation Board for fiscal years 1999, 2000, 2001, and 2002, and for other purposes.

S. 174

At the request of Mr. MOYNIHAN, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 174, a bill to provide funding for States to correct Y2K problems in computers that are used to administer State and local government programs.

S. 247

At the request of Mr. HATCH, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of S. 247, a bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

S. 258

At the request of Mr. MCCAIN, the names of the Senator from Rhode Island [Mr. CHAFEE] and the Senator from Oregon [Mr. WYDEN] were added as cosponsors of S. 258, a bill to authorize additional rounds of base closures and realignments under the Defense Base Closure and Realignment Act of 1990 in 2001 and 2003, and for other purposes.

S. 271

At the request of Mr. FRIST, the name of the Senator from Pennsyl-

vania [Mr. SANTORUM] was added as a cosponsor of S. 271, a bill to provide for education flexibility partnerships.

S. 280

At the request of Mr. FRIST, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 280, a bill to provide for education flexibility partnerships.

At the request of Mr. BUNNING, his name was added as a cosponsor of S. 280, supra.

S. 319

At the request of Mr. LAUTENBERG, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 319, a bill to provide for childproof handguns, and for other purposes.

S. 331

At the request of Mr. JEFFORDS, the names of the Senator from Oregon [Mr. WYDEN] and the Senator from Louisiana [Ms. LANDRIEU] were added as cosponsors of S. 331, a bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

S. 346

At the request of Mr. ROBB, his name was added as a cosponsor of S. 346, a bill to amend title XIX of the Social Security Act to prohibit the recoupment of funds recovered by States from one or more tobacco manufacturers.

At the request of Mr. GRAHAM, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 346, supra.

S. 368

At the request of Mr. COCHRAN, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 368, a bill to authorize the minting and issuance of a commemorative coin in honor of the founding of Biloxi, Mississippi.

S. 371

At the request of Mr. GRAHAM, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 371, a bill to provide assistance to the countries in Central America and the Caribbean affected by Hurricane Mitch and Hurricane Georges, to provide additional trade benefits to certain beneficiary countries in the Caribbean, and for other purposes.

S. 391

At the request of Mr. KERREY, the names of the Senator from Alabama [Mr. SESSIONS], the Senator from California [Mrs. FEINSTEIN], and the Senator from California [Mrs. BOXER] were added as cosponsors of S. 391, a bill to provide for payments to children's hospitals that operate graduate medical education programs.