SENATE—*Thursday, February 9, 1989*

(Legislative day of Tuesday, January 3, 1989)

The Senate met at 8:30 p.m., on the expiration of the recess, and was called to order by the Honorable JOHN BREAUX, a Senator from the State of Louisiana.

PRAYER

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

Let us pray:

Blessed be the name of God for ever and ever: for wisdom and might are his: and he changeth the times and the seasons: he removeth kings, and setteth up kings: he giveth wisdom unto the wise, and knowledge to them that know understanding.—Daniel 2:20-21.

Eternal God, sovereign Lord of Heaven and Earth, what profound possibilities as the world in microcosm gathers this evening in the House Chamber. Make Thy presence felt as executive, legislative, and judicial branches join the diplomatic community, and the people participate through television.

Infuse this dramatic gathering with wisdom, truth, and justice. Sensitize us to our unity as humans, our frailty in the face of cosmic needs and the universal dependence of the global community upon Thee in this critical hour.

In the name of the Lord and for His glory. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 9, 1989.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BREAUX thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE FOLLOWING RECESS

Mr. MITCHELL. Mr. President, for the information of my colleagues, I would like to briefly lay out the program following the recess period.

It appears now that there will be no legislation or nominations available for floor consideration on Tuesday, February 21. In view of this, it is my intention to ask consent that when the Senate reconvenes on Tuesday it be for a pro forma session only with no business conducted. We would then recess over to 12 noon on Wednesday for the reading of Washington's Address. Following the reading of the Address, the Senate would stand in recess for the two policy luncheons until 2:15 p.m. At that time, it is my hope that we could proceed to S. 20, the Whistleblower Protection Act. Should it be possible to schedule the bill for Wednesday, Senators should be on notice that a rollcall vote on final passage could occur later that afternoon.

ORDERS FOR TUESDAY, FEBRUARY 21, AND WEDNESDAY, FEBRUARY 22

Mr. MITCHELL. Mr. President, I ask unanimous consent that on Tuesday, February 21, the Senate meet in pro forma session only and that no business be conducted. I further ask unanimous consent that upon completion of the pro forma session the Senate stand in recess until 12 noon on Wednesday, February 22, and that the time of the two leaders be delayed to begin at 2:15 p.m. that day. I further ask unanimous consent that the reading of Washington's Farewell Address occur immediately following the prayer on Wednesday, February 22 and that upon its completion the Journal of Proceedings be approved to date and the Senate stand in recess until 2:15 p.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

PRINTING OF AMENDMENTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that three amendments numbered 3, 4, and 5, offered by Senator JOHNSTON, be printed as Senate amendments.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

STATUS OF NOMINATIONS

Mr. MITCHELL. Mr. President, the Senate has confirmed 11 of the President's nominees for key positions in the administration. When the Senate convenes on Tuesday, February 21, none of the remaining nominations will then be ready for floor consideration.

The White House has requested the Armed Services Committee to postpone the vote on the nomination of John G. Tower to be Secretary of Defense until the FBI has completed its investigation.

The hearings on the nomination of Louis W. Sullivan to be Secretary of Health and Human Resources have been delayed at the request of the White House. The Finance Committee hopes to schedule hearings on Dr. Sullivan's nomination during the week of February 21.

At the request of the White House and the nominee, the Judiciary Committee has announced that the hearings on the nomination of William J. Bennett to be Director of National Drug Control Policy will be held on March 1 and March 2.

No hearings have been scheduled on the nomination of James D. Watkins to be Secretary of Energy. The White House has requested this delay to permit the completion of necessary background materials.

The Committee on Veterans' Affairs has scheduled a hearing on Thursday, February 23, and a markup on Friday, February 24 on the nomination of Edward J. Derwinski to be the Secretary of Veterans' Affairs.

Mr. President, I now yield to the distinguished Republican leader.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the Republican leader is now recognized for 1 minute.

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

MEDICAID HOME AND COMMUNITY QUALITY SERVICE ACT

Mr. DOLE. Mr. President, yesterday my colleague, Senator CHAFEE, introduced the Medicaid Home and Community Quality Services Act of 1989, of which I am a cosponsor. I support this legislation because I endorse its goal of creating more opportunities for personal growth and independence for individuals with severe disabilities.

In recent years, the trend in care for people with severe disabilities in my own State of Kansas and across the Nation has shifted from institutions to home and community-based settings. These less restrictive environments have proven to be very effective in encouraging such individuals to realize their full potential and become integrated into community life. The Medicaid Home and Community Quality Services Act recognizes and promotes this trend.

While I support providing more noninstitutional options to individuals with severe disabilities, I also believe we must do what we can to ensure that quality care is given to people living in institutions. I expect that careful consideration will be given to this and other issues of concern to institutional residents and their families. What is important is that we give people options—including the option of an institution—and that we make sure that, whatever the setting, the services provided are appropriate and of high quality.

Mr. President, we all support providing greater opportunities to people with disabilities to become productive and independent members of our society. Increasing options for quality care will give such individuals more control over their own lives, and for this reason I believe that this legislation deserves consideration.

INF INSPECTORS HELP ARMENIAN CHILDREN

Mr. DOLE. Mr. President, at 2 p.m. this afternoon First Lady Barbara Bush and Virginia's Senator JOHN WARNER were at Andrews Air Force Base to greet 37 young victims of the Armenian earthquake. These children desperately need modern medical attention, and they are going to get it in Charlottesville, VA, and five other American cities.

These Armenian children left their homeland aboard a U.S. Air Force C-141 aircraft which transported an American INF Treaty inspection team to the Soviet Union. Their arrival here is the result of the compassion, cooperation, and quick thinking of many Americans.

In the forefront was Virginia's Senator JOHN WARNER.

Project Hope President Dr. William Walsh recognized America's opportunity to help these children, if only he could get them here. He turned to JOHN WARNER for help. Senator WARNER appealed to Acting Secretary of Defense Taft and the Military Airlift Command went to work.

WARNER, Taft, and MAC searched for the quickest means available, and that turned out to be a MAC plane which was already in the Soviet Union to deliver an INF inspection team. So General LaJoie and his inspectors lent a hand too.

Meanwhile, Project Hope arranged free medical care at some of America's leading hospitals like the Kluge Children's Rehabilitation Center at the University of Virginia.

I know our young Armenian guests will also get a warm welcome in Charlottesville, Chicago, Buffalo, Philadelphia, Boston, and Syracuse.

For these 37 Armenian children this story will have a happy ending because of Project Hope, the Military Airlift Command, the onsite inspection agency, doctors, hospitals, and caring people in six cities—and, let us not forget those people like Dr. Walsh and Senator WARNER who helped put it all together.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Does the majority leader seek further recognition?

Mr. MITCHELL. Mr. President, I believe the Chair will now announce morning business for 1 minute to allow for the introduction of bills.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to exceed 1 minute.

GAO FINDINGS ON CERTAIN ALLEGATIONS ARISING OUT OF NARS VERSUS TURNAGE

Mr. CRANSTON. Mr. President, on January 8, 1987, Judge Marilyn Patel in the course of trying the case of NARS versus Turnage, levied a fine of approximately $120,000 against the VA for its "reckless disregard" of its discovery obligations. In addition, documents produced and witness testimony in the case raised serious questions about alleged fundamental flaws in the VA's claims adjudication system.

The House and Senate Veterans' Affairs Committees held a joint hearing on March 17, 1987, to examine these issues, as well as the issue of alleged harassment and intimidation of certain VA employees in connection with their giving evidence in the NARS case. The testimony received at that hearing indicated that the VA had taken some steps to correct problems with its system for responding to discovery requests. However, serious questions remained unanswered. Therefore, in February 1987 Representative DON EDWARDS, the ranking Democratic member on the House Committee on Veterans' Affairs, and I asked GAO to investigate certain allegations arising out of the case of NARS versus Turnage—namely allegations; first, of denials of due process in the adjudication of veterans' claims for Veterans' Administration benefits; second, of the VA's failure to comply with its discovery obligations in the NARS case; and third, of harassment and intimidation of VA employees in connection with that case.

The GAO has completed its investigation into items two and three, the discovery and employee harassment allegations. On September 15, 1988, Representative EDWARDS and I received a letter responding to our request for the investigation into these allegations and a written summary of their findings thus far. The investigation into item one, the denial of due process allegations, is still ongoing. Mr. President, I ask unanimous consent that a copy of that letter and the GAO report be printed in the RECORD at this point.

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

CONGRESS OF THE UNITED STATES,
Washington, DC, September 20, 1988.

Hon. THOMAS K. TURNAGE,
Administrator of Veterans' Affairs, Washington, DC.

DEAR TOM: In February 1987, we asked the General Accounting Office (GAO) to investigate certain allegations out of the case of *NARS* v. *Turnage*. These allegations are: (1) alleged denials of due process in the adjudication of veterans' claims for Veterans' Administration benefits; (2) the VA's alleged failure to comply with its discovery obligations in the *NARS* case; and (3) alleged harassment and intimidation of VA employees in connection with that case.

The GAO has completed its investigation into items (2) and (3) above, the discovery and employee harassment allegations. (The GAO's investigation into item (1), the denial of due process allegations, is still ongoing.) We wanted to share with you a copy (enclosed) of the GAO's report on these issues.

With warm regards,

Cordially,

ALAN CRANSTON,
Chairman, Senate Committee on Veterans' Affairs.

DON EDWARDS,
Ranking Democratic Member, House Committee on Veterans' Affairs.

GENERAL ACCOUNTING OFFICE,
Washington, DC, September 15, 1988.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans' Affairs, U.S. Senate.

Hon. DON EDWARDS,
Ranking Democractic Member, Committee on Veterans' Affairs, House of Representatives.

The enclosed report responds to your April 1987 request that we investigate certain allegations relating to the *National As-*

sociation of Radiation Survivors (NARS) v. *Turnage* litigation. On September 2, 1987, we provided you with an oral briefing of our investigative findings. On March 2, 1988, you requested that we furnish you with a written summary of these findings.

We are making no distribution of this report at this time.

Should you have any questions regarding the report's contents, please contact me at (202) 272-5500.

DAVID C. WILLIAMS,
Director.

INTRODUCTION

In April 1987, Senator Alan Cranston, Chairman, Senate Committee on Veterans' Affairs, and Congressman Don Edwards, Ranking Democratic Member, House Committee on Veterans' Affairs, requested that we investigate certain allegations relating to the *National Association of Radiation Survivors (NARS)* v. *Turnage* litigation. On September 2, 1987, we orally provided Senator Cranston and Congressman Edwards with the results of our investigation. On March 2, 1988, they requested that we furnish a written summary of these findings.

Specifically, we were requested to investigate allegations that (1) the purging and destruction of records within the Veterans Administration (VA) Compensation and Pension Service were related to requests for documents submitted by the plaintiffs in the NARS case and (2) VA employees involved in the NARS litigation were subjected to threats, harassment, and intimidation. We were also asked to determine (1) the adequacy of the VA Inspector General's investigation into the allegations and (2) the status and scope of the investigation conducted by the Federal Bureau of Investigation (FBI). Finally, we were asked to ascertain if any new procedures have been implemented within the VA concerning the handling of requests for documents.

Methodology

Our investigation included a review of the following documents: affidavits obtained by the VA Office of the General Counsel, Congressional hearing transcripts, deposition transcripts, motions filed in the litigation, VA personnel files, VA Inspector General's report (61Q-017), time and attendance reports, and VA internal documents.

In addition to reviewing these documents, we conducted over 20 interviews of employees and others involved with the NARS litigation.

We also met with representatives of the U.S. Department of Justice, Public Integrity Section, and the FBI who have been involved in concurrent investigations of many of the same allegations.

Background

Allegations arose that employees of the VA Compensation and Pension Service who were responsible for processing discovery requests in the *NARS* v. *Turnage* litigation may have intentionally purged, destroyed, or withheld records that had been requested by the plaintiffs in the litigation. Additionally, a few VA employees alleged that they had been harassed, threatened, and intimidated by certain VA supervisors as a result of their involvement with the litigation.

INVESTIGATIVE FINDINGS

Our general investigative findings include the following:

We were unable to establish that official VA records relating to the NARS litigation were intentionally purged, destroyed, or withheld in order to deprive the plaintiff of the records' contents. However, some VA records that were potentially responsive to the plaintiff's discovery requests for documents may have inadvertently been destroyed by VA staff.

We were unable to establish that VA employees were harassed, threatened, or intimidated by supervisory personnel as a result of their involvement with NARS litigation. However, some incidents occurred that could have been perceived as such by certain VA employees. During our interviews, a few VA employees expressed concern that they might be subjected to such actions in the future. We advised these employees of the procedures for reporting such incidents should they occur.

We determined that the VA Office of Inspector General's investigation into the alleged destruction of records was adequate considering the scope of the VA's request and the relatively short time frame the OIG had to complete it. The information developed by the Inspector General's investigation did not contradict information that we developed during our investigation.

VA officials advised us that they had not issued any written procedures or directives concerning the handling of document requests resulting from NARS litigation. However, the VA advised us that the following informal practices have been implemented to improve the handling of requests for documents:

All VA division directors must now attest to the Office of General Counsel, via memoranda, that they have researched their files and provided all requested documents.

All of the documents provided in response to requests are now photocopied to ensure that permanent records exist of material furnished to plaintiffs.

Complete copies of document requests are now distributed to all concerned staff members. In the past, only portions of a document request were distributed, which sometimes contributed to what appeared to be inadvertent omissions by personnel, who were unaware that material in their possession had been requested.

Communication with the various field stations and other departments has been improved to ensure that all possible material and information requested is compiled and provided to plaintiffs. Consequently, the VA Office of the General Counsel is receiving more requests for clarification of document request issues.

The automated litigation support system that was utilized during the latter phases of the NARS litigation may be used again if similar litigation involving an extremely large volume of records is encountered.

Officials of the VA Compensation and Pension Service and the VA Office of the General Counsel advised us that their personnel now have an increased awareness of the necessity of strict adherence to the requirements of a document request. We believe that if these procedures had been in place prior to the NARS litigation, they would have helped prevent some of the problems that occurred, such as the failure to distribute an entire copy of a request for documents to all concerned personnel, the poor communication between the VA Office of the General Counsel and the U.S. Attorney's Office, and the failure of the VA to account adequately for documents that were provided to the plaintiffs.

On March 9, 1988, the FBI advised us that its field work on its investigation was complete. Its investigative findings are now under review by the Department of Justice, Public Integrity Section.

The FBI's investigation primarily focused on allegations of harassment, intimidation, and threats concerning three VA employees. The investigation was concurrent with, but independent of, our investigation.

Both the FBI and the Public Integrity Section were briefed on our findings. While at the time they were not at liberty to discuss the details of their investigation, they did indicate that they were not in possession of any information that would contradict our findings.

DR. LENOX BAKER: WHEN CRIPPLED CHILDREN NEEDED A FRIEND, HE WAS THERE

Mr. HELMS. Mr. President, all of us—if we are lucky—are privileged to have some truly remarkable and inspiring friends, rare and unique people who stand out above the crowd in achievement, compassion, courage, and high principles. More often than not, they seek no personal acclaim and, in fact, are embarrassed when others call attention to their achievements.

I have a very special friend like that. His name is Lenox Dial Baker. He was born in Texas. He is 86 now, but the twinkle in his eyes is still there. He is tall and erect, as always. And his interest in, and his love for, his country have not diminished in the slightest.

Mr. President, I first met Lenox Baker more than a quarter of a century ago. It was his love of children, particularly crippled children, that led to the beginning of our friendship. From the very beginning I recognized that this was a very special man, a man who cared, a man determined to make this world better than he found it.

On January 27, the afternoon newspaper in Durham, NC, the Durham Sun, published a profile of Lenox Baker's life. Ann Green wrote the story. As I read it, I sensed that Ann Green realized that she was writing about a remarkable human being.

I felt the same way a quarter of a century ago when I made the rounds with Dr. Baker at a hospital for crippled children adjacent to Duke University Medical Center in Durham. The children then at the hospital were mostly cerebral palsied. And that tall, erect director of the hospital genuinely loved every one of them—and they loved him back twofold.

Mr. President, I have seen many a tear roll down Dr. Baker's cheeks as he lovingly examined the children, as he comforted them, as he gave them hope. He had performed surgery on most of them. He had straightened their twisted little arms and legs that had been deformed since birth. He and his associates at the hospital taught them how to walk. He gave them love, and they gave it back in double measure.

Mr. President, the story of Lenox Baker's life is so remarkable that it is difficult to believe that it is not a fic-

tional account. Lenox Baker could have been a leader in any one of many other fields. Indeed, at various times early in his adult life he was a banker, a lawyer—and, because he was such a handsome man, he even modeled. Now retired he is still an impressive man in every way.

I believe Senators will enjoy reading Ann Green's story about Lenox Baker as it appeared in late January in the Durham paper. The headline across the top of the page read, "Dr. Lenox Baker Still Loves Sports, Medicine." And he still loves children.

There is so much more that I could say about this man, but I think I will stop now and urge Senators and others who have access to the CONGRESSIONAL RECORD to read the account of Lenox Baker's life. Therefore, Mr. President, I ask unanimous consent that Ann Green's article, to which I have alluded, be printed in the RECORD at the conclusion of my remarks.

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

[From the Durham Sun, Jan. 27, 1989]

DR. LENOX BAKER STILL LOVES SPORTS, MEDICINE

(By Ann Green)

When Dr. Lenox Baker enrolled in the first medical class at Duke University School of Medicine in 1930, he and his classmates were like "one big family."

"The faculty knew all the students," said Dr. Baker, who was the first medical student accepted at the Duke School of Medicine. "We had the run of the hospital. A large number of students lived in the hospital on unopened wards because there were not enough patients to fill the ward."

But Dr. Baker, who worked his way through medical school as an athletic trainer for Duke, lived in the tower of Carr gym.

"It was the center of athletics before Cameron Stadium was built," he said. "I called myself the wet nurse for 17 football players who lived there."

During this time, Durham had a reputation as a mill and cotton town.

"I came to Durham in 1929 and was privileged to know its founders," said Dr. Baker. "It had a population of 48,000."

At Duke's West Campus, buildings were being constructed.

"The campus was swarming with Italian stone masons," said Dr. Baker. "They were real artisans. I would walk through the campus and see them cutting out coats of arms and figurines."

After medical school, Dr. Baker did an internship at Johns Hopkins University in Baltimore where he worked with the famed orthopedic surgeon Dr. George E. Bennett. He assisted Dr. Bennett with operations on several great baseball players including Frank Crosetti of the New York Yankees.

With this training, Dr. Baker returned to Duke where he became acclaimed for his work in orthopedic surgery and vocational rehabilitation. He established the Lenox Baker Cerebral Palsy and Crippled Children's Hospital in Durham in 1938 through the cooperation of and gift of land by Duke University. He served as its first medical director.

This many-faceted physician later became professor of orthopedics at Duke Medical School where he trained doctors.

"My biggest accomplishment was training and turning out doctors for the orthopedic program at Duke," said Dr. Baker. "They became like my sons. They considered me a tough daddy. But I always told them: 'Melt iron ore in the furnace, pour it out and you have pig iron. But beat it a lot and you have steel.'"

Later, Dr. Baker set up crippled children's clinics across the state. He was presented the Physician's Award by President Dwight Eisenhower as the physician who made the greatest contribution to the physically handicapped.

In 1971, he served as the first secretary of the North Carolina Human Resources Department.

"I took 34 independent agencies and combined them under one umbrella in a billion dollar budget," said Dr. Baker.

Now retired and spry at the age of 86, Dr. Baker, a tall, erect man, has put his work behind him.

He spends time with his second wife, Margaret Copeland, in their brick townhouse that is elegantly furnished with antiques and Oriental rugs. The walls are lined with plagues and photos of famous athletes like heavyweight boxing champion Jack Dempsey and New York Giants catcher Chief Meyers.

Baker, who was inducted into the North Carolina Sports Hall of Fame, still is an avid sports fan. He goes to Duke basketball and football games.

He is also a champion of conservativeness. He counts Sen. Jesse Helms as a "personal friend." An American flag flies outside his home. When he goes out, he dresses like a Southern gentleman—suit and homburg hat.

"I am an ultraconservative and unreconstructed Southerner who believes in God and that man's success depends, not entirely, but largely on genes," he said.

This well-known physician spends a lot of time studying genealogy. He is writing a book about the Flowers' family. His first wife, who is now dead, was Virginia Flowers, who was the daughter of the late Robert Flowers, president of Duke University.

"I married well," he said. "She opened many doors, locally and nationwide in orthopedics."

Dr. Baker was reared in Texarkana, Texas where he was introduced to athletics. His father played in pickup baseball games and the younger Baker would serve as batboy.

When the Class D Texas-Oklahoma League was formed, Dr. Baker's father, by then the sheriff of Bowie County and a wholesale grocer, threw his financial support to the Texarkana team. Baker served as its batboy.

During one summer, this sports lover went to Marlin, Texas where the New York Giants were involved in spring training.

Baker's father developed a friendship with Chief Meyers and other New York Giants players. One night Meyers came to stay with the Bakers and ended up in the young batboy's room.

"He stayed in my room the rest of the training period," said Dr. Baker.

When Dr. Baker went to college, he headed for the University of Tennessee where he worked as an athletic trainer.

After leaving Tennessee, he headed for New York where he worked at the Chase Manhattan Bank.

He said, "I was originally trained in business and banking. Sitting at a desk in a black alpaca coat didn't appeal to me."

In 1929, he left this world just before the Big Crash.

His first job in Durham was as an athletic trainer for the Duke football team.

It was a glorious time for athletics at Duke.

James DeHart, football coach, brought in Jack Coombs as baseball coach, Eddie Cameron as assistant football coach and others who helped to build a great athletic program.

When Dr. Baker finished his medical training, he became team physician for the Duke Blue Devils.

As his reputation grew, he treated N.C. State players, Davidson players and athletes in other states.

He also was asked to be an expert witness in a suit that Jack Dempsey filed against the *Saturday Evening Post* for reporting that he used plaster of Paris in his boxing gloves during a heavyweight fight. Dr. Baker never testified because the magazine settled with Dempsey out of court.

"It was a ridiculous, crazy story," he said. "If you wrapped hands in plaster of Paris, it would be weight on the hands and tire them out."

As team physician, Dr. Baker worked with the great coach Wallace Wade, who took Duke to the Rose Bowl in 1938. That same year, the Blue Devils went the entire season without being scored upon.

He learned a lot about being a "disciplinarian" from Wade.

"He said the world was full of poor Charleys and not interested in how hard you tried," said Dr. Baker. "The world just wants to know if you did the job or didn't."

During his years with the Blue Devils, Dr. Baker got to know a lot of great football players including Freddie Crawford and Sonny Jurgensen. He still gets letters from many of the players.

"I could feel the faith they had in me whether I deserved it or not," he said. "It was a real high light to have worked with them. I was devoted to them, and they knew it."

As Dr. Baker became involved in other medical activities, he gradually turned over the job of team physician to Dr. Frank Bassett.

"That is the way I wanted it," said Baker. "I wanted the coaches and players to get to know him. I guess I never stopped being the team physician. Like Douglas MacArthur said 'I just faded away.'"

STATE OF THE UNION—MESSAGE FROM THE PRESIDENT—PM 15

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was ordered to lie on the table:

To the Congress of the United States:

Less than 3 weeks ago, I joined you on the West Front of this very building and—looking over the monuments to our proud past—offered you my hand in filling the next page of American history with a story of extended prosperity and continued peace. Tonight, I am back to offer you my plans as well. The hand remains extended,

the sleeves are rolled up, America is waiting, and now we must produce.

Together, we can build a better America.

It is comforting to return to this historic chamber. Here, 22 years ago, I first raised my hand to be sworn into public life. So tonight I feel as if I am returning home to friends. And I intend, in the months and years to come, to give you what friends deserve: frankness, respect, and my best judgment about ways to improve America's future.

In return, I ask for an honest commitment to our common mission of progress. If we seize the opportunities on the road before us, there will be praise enough for all.

The people did not send us here to bicker. It is time to govern.

Many Presidents have come to this chamber in times of great crisis. War. Depression. Loss of national spirit.

Eight years ago, I sat in the President of the Senate's chair as President Reagan spoke of punishing inflation and devastatingly high interest rates, people out of work, American confidence on the wane.

Our challenge is different.

We are fortunate—a much changed landscape lies before us tonight.

So I do not propose to reverse direction. We are headed the right way.

But we cannot rest. We are a people whose energy and drive have fueled our rise to greatness. We are a forward-looking nation—generous, yes, but ambitious as well—not for ourselves, but for the world.

Complacency is not in our character—not before, not now, not ever.

So tonight, we must take a strong America—and make it even better.

We must address some very real problems. We must establish some very clear priorities. And we must make a very substantial cut in the Federal budget deficit.

Some people find that agenda impossible.

But I am presenting to you tonight a realistic plan for tackling it. My plan has four broad features: attention to urgent priorities, investment in the future, an attack on the deficit, and *no new taxes.*

This budget represents my best judgment of how we can address our priorities, consistent with the people's view. There are many areas in which we would all like to spend more than I propose, but we cannot until we get our fiscal house in order.

Next year alone, thanks to economic growth, without any change in the law the Federal Government will take in over $80 billion more than it does this year. That is right—over $80 billion in new revenues, with no increase in taxes. Our job is to allocate those new resources wisely.

We can afford to increase spending—by a modest amount, but enough to invest in key priorities and still cut the deficit by almost 40 percent in 1 year.

That will allow us to meet the targets set forth in the Gramm-Rudman-Hollings law.

But to do that, we must recognize that growth above inflation in Federal programs is not preordained, that not all spending initiatives were designed to be immortal.

I make this pledge tonight: My team and I are ready to work with the Congress, to form a special leadership group, to negotiate in good faith, to work day and night—if that is what it takes—to meet the budget targets and to produce a budget on time.

We cannot settle for business as usual.

Government by continuing resolution—or government by crisis—will not do.

I ask the Congress tonight to approve several measures that will make budgeting more sensible. We could save time and improve efficiency by enacting 2-year budgets.

Forty-three Governors have the line-item veto. Presidents should have it, too.

At the very least, when a President proposes to rescind Federal spending, the Congress should be required to vote on that proposal—instead of killing it by inaction.

And I ask the Congress to honor the public's wishes by passing a constitutional amendment to require a balanced budget. Such an amendment, once phased in, will discipline both the Congress and the executive branch.

Several principles describe the kind of America I hope to build with your help in the years ahead.

We will not have the luxury of taking the easy, spendthrift approach to solving problems—because higher spending and higher taxes put economic growth at risk.

Economic growth provides jobs and hope. Economic growth enables us to pay for social programs. Economic growth enhances the security of the Nation. And low tax rates create economic growth.

I believe in giving Americans greater freedom and greater choice—and I will work for choice for American families, whether in the housing in which they live, the schools to which they send their children, or the child care they select for their young.

I believe that we have an obligation to those in need, but that Government should not be the provider of first resort for things that the private sector can produce better.

I believe in a society that is free from discrimination and bigotry of any kind. I will work to knock down the barriers left by past discrimination, and to build a more tolerant society that will stop such barriers from ever being built again.

I believe that family and faith represent the moral compass of the Nation—and I will work to make them strong, for as Benjamin Franklin said: "If a sparrow cannot fall to the ground without His notice, [can] a great [nation] rise without His aid?"

And I believe in giving people the power to make their own lives better through growth and opportunity. Together, let us put power in the hands of people.

Three weeks ago we celebrated the Bicentennial Inaugural, the 200th anniversary of the first Presidency.

And if you look back, one thing is so striking about the way the Founding Fathers looked at America. They did not talk about themselves. They talked about posterity. They talked about the future.

We, too, must think in terms bigger than ourselves.

We must take actions today that will ensure a better tomorrow. We must extend American leadership in technology, increase long-term investment, improve our educational system, and boost productivity. These are the keys to building a better future.

Here are some of my recommendations:

—I propose almost $2.2 billion for the National Science Foundation to promote basic research;

—I propose to make permanent the tax credit for research and development;

—I have asked Vice President QUAYLE to chair a new Task Force on Competitiveness;

—I request funding for the National Aeronautics and Space Administration and a strong space program—an increase of almost $2.4 billion over the current fiscal year. We must have a manned space station; a vigorous, safe space shuttle program; and more commercial development in space. The space program should always go "full throttle up"—that is not just our ambition, it is our destiny.

—I propose that we cut the maximum tax rate on capital gains to increase long-term investment. History is clear: This will increase revenues, help savings, and create new jobs.

We will not be competitive if we leave whole sectors of America behind. This is the year we should finally enact urban enterprise zones and bring hope to our inner cities.

But the most important competitiveness program of all is one that improves education in America.

When some of our students actually have trouble locating America on a map of the world, it is time for us to map a new approach to education.

We must reward excellence and cut through bureaucracy. We must help those schools that need help most. We

must give choice to parents, students, teachers, and principals. And we must hold all concerned accountable. In education, we cannot tolerate mediocrity.

I want to cut the dropout rate and make America a more literate Nation. Because what it really comes down to is this: The longer our graduation lines are today, the shorter our unemployment lines will be tomorrow.

So tonight I am proposing the following initiatives:

—the beginning of a $500 million program to reward America's best schools—"merit schools";

—the creation of special presidential awards for the best teachers in every State—because excellence should be rewarded;

—the establishment of a new program of National Science Scholars, one each year for every member of the House and Senate, to give this generation of students a special incentive to excel in science and mathematics;

—the expanded use of magnet schools, which give families and students greater choice;

—and a new program to encourage "alternative certification," which will let talented people from all fields teach in the classroom.

I have said I would like to be "the Education President." Tonight, I ask you to join me by becoming "the Education Congress."

Just last week, as I settled into this new office, I received a letter from a mother in Pennsylvania who had been struck by my message in the Inaugural Address. "Not 12 hours before," she wrote, "my husband and I received word that our son was addicted to cocaine. He had the world at his feet. Bright, gifted, personable, he could have done anything with his life. Now he has chosen cocaine."

"Please," she wrote, "find a way to curb the supply of cocaine. Get tough with the pushers. Our son needs your help."

My friends, that voice crying out for help could be the voice of your own neighbor. Your own friend. Your own son. Over 23 million Americans used illegal drugs last year—at a staggering cost to our Nation's well-being.

Let this be recorded as the time when America rose up and said "no" to drugs. The scourge of drugs must be stopped.

I am asking tonight for an increase of almost a billion dollars in budget outlays to escalate the war against drugs. The war will be waged on all fronts.

Our new "drug czar," Bill Bennett, and I will be shoulder-to-shoulder, leading the charge.

Some money will be used to expand treatment to the poor and to young mothers. This will offer the helping hand to the many innocent victims of drugs—like the thousands of babies born addicted, or with AIDS, because of the mother's addiction.

Some will be used to cut the waiting time for treatment.

Some money will be devoted to those urban schools where the emergency is now the worst. And much of it will be used to protect our borders, with help from the Coast Guard, the Customs Service, the Departments of State and Justice, and, yes, the U.S. military.

I mean to get tough on the drug criminals. Let me be clear: This President will back up those who put their lives on the line every day—our local police officers.

My budget asks for beefed-up prosecution, for a new attack on organized crime, and for enforcement of tough sentences—and for the worst kingpins, that means the death penalty.

I also want to make sure that when a drug dealer is convicted, there is a cell waiting for him. He should not go free because prisons are too full.

Let the word go out: If you are caught and convicted, you will do time.

But for all we do in law enforcement, in interdiction and treatment, we will never win this war on drugs unless we stop demand for drugs.

So some of this increase will be used to educate the young about the dangers of drugs. We must involve parents. We must involve teachers. We must involve communities. And my friends, we must involve ourselves.

One problem related to drug use demands our urgent attention and our continuing compassion. That is the terrible tragedy of AIDS.

I am asking for $1.6 billion for education to prevent the disease—and for research to find a cure.

If we are to protect our future, we need a new attitude about the environment.

We must protect the air we breathe.

I will send to you shortly legislation for a new, more effective Clean Air Act. It will include a plan to reduce, by date certain, the emissions that cause acid rain—because the time for study alone has passed, and the time for action is now.

We must make use of clean coal. My budget contains full funding, on schedule, for the clean coal technology agreement we have made with Canada. We intend to honor that agreement.

We must not neglect our parks. So I am asking to fund new acquisitions under the land and water conservation fund.

We must protect our oceans. I support new penalties against those who would dump medical waste and other trash in the oceans. The age of the needle on the beach must end.

In some cases, the gulfs and oceans off our shores hold the promise of oil and gas reserves that can make our Nation more secure and less dependent on foreign oil. When those with the most promise can be tapped safely, as with much of the Alaska National Wildlife Refuge, we should proceed. But we must use caution, and we must respect the environment.

So tonight I am calling for the indefinite postponement of three lease sales that have raised troubling questions—two off the coast of California and one that could threaten the Everglades in Florida.

Action on these three lease sales will await the conclusions of a special task force set up to measure the potential for environmental damage.

I am directing the Attorney General and the Administrator of the Environmental Protection Agency to use every tool at their disposal to speed and toughen the enforcement of our laws against toxic-waste dumpers. I want faster cleanups and tougher enforcement of penalties against polluters.

In addition to caring for our future, we must care for those around us. A decent society shows compassion for the young, the elderly, the vulnerable, and the poor.

Our first obligation is to the most vulnerable—infants, poor mothers, children living in poverty—and my proposed budget recognizes this. I ask for full funding of Medicaid—an increase of over $3 billion—and an expansion of the program to include coverage of pregnant women who are near the poverty line.

I believe we should help working families cope with the burden of child care.

Our help should be aimed at those who need it most—low-income families with young children. I support a new child care tax credit that will aim our efforts at exactly those families—without discriminating against mothers who choose to stay at home.

Now, I know there are competing proposals. But remember this: The overwhelming majority of all preschool child care is now provided by relatives and neighbors, churches and community groups. Families who choose these options should remain eligible for help. Parents should have choice.

And for those children who are unwanted or abused, or whose parents are deceased, we should encourage adoption. I propose to reenact the tax deduction for adoption expenses and to double it to $3,000. Let us make it easier for those kids to have parents who love them.

We have a moral contract with our senior citizens. In this budget, Social Security is fully funded, including a full cost-of-living adjustment. We must honor our contract.

We must care about those in "the shadows of life," and I, like many Americans, am deeply troubled by the plight of the homeless. The causes of homelessness are many, the history is

long, but the moral imperative to act is clear.

Thanks to the deep well of generosity in this great land, many organizations already contribute. But we in government cannot stand on the sidelines. Im my budget, I ask for greater support for emergency food and shelter, for health services and measures to prevent substance abuse, and for clinics for the mentally ill—and I propose a new initiative involving the full range of Government agencies. We must confront this national shame.

There is another issue I decided to mention here tonight. I have long believed that the people of Puerto Rico should have the right to determine their own political future. Personally, I favor statehood. But I ask the Congress to take the necessary steps to let the people decide in a referendum.

Certain problems, the result of decades of unwise practices, threaten the health and security of our people. Left unattended, they will only get worse—but we can act now to put them behind us.

Earlier this week, I announced my support for a plan to restore the financial and moral integrity of our savings system. I ask the Congress to enact our reform proposals within 45 days. We must not let this situation fester.

Certainly, the savings of Americans must remain secure—insured depositors will continue to be fully protected. But any plan to refinance the system must be accompanied by major reform. Our proposals will prevent such a crisis from recurring. The best answer is to make sure that a mess like this will never happen again.

The majority of thrifts in communities across this Nation have been honest; they have played a major role in helping families achieve the American dream of home ownership. But make no mistake: Those who are corrupt, those who break the law, must be kicked out of the business; and they should go to jail.

We face a massive task in cleaning up the waste left from decades of environmental neglect at America's nuclear weapons plants.

Clearly, we must modernize these plants and operate them safely. That is not at issue—our national security depends on it.

But beyond that, we must clean up the old mess that has been left behind—and I propose in this budget to more than double our current effort to do so. This will allow us to identify the exact nature of the various problems so we can clean them up—and clean them up we will.

We have been fortunate during these past 8 years. America is a stronger nation today than it was in 1980.

Morale in our armed forces is restored. Our resolve has been shown. Our readiness has been improved. And we are at peace.

There can no longer be any doubt that peace has been made more secure through strength. When America is stronger, the world is safer.

Most people do not realize that, after the successful restoration of our strength, the Pentagon budget has actually been reduced in real terms for each of the last 4 years. We cannot tolerate further reductions.

In light of the compelling need to reduce the deficit, however, I support a 1-year freeze in the military budget—something I proposed last fall in my flexible freeze plan.

This freeze will apply for only 1 year—after that increases above inflation will be required. I will not sacrifice American preparedness; and I will not compromise American strength.

I should be clear on the conditions attached to my recommendation for the coming year:

—the savings must be allocated to those priorities for investing in our future that I have spoken about tonight;

—this defense freeze must be part of a comprehensive budget agreement that meets the targets spelled out in the Gramm-Rudman-Hollings law without raising taxes and that incorporates reforms in the budget process.

I have directed the National Security Council to review our national security and defense policies and report back to me within 90 days to ensure that our capabilities and resources meet our commitments and strategies.

I am also charging the Department of Defense with the task of developing a plan to improve the defense procurement process and management of the Pentagon—one that will implement fully the Packard Commission report. Many of the changes can only be made with the participation of the Congress—so I ask for your help.

We need fewer regulations. We need less bureaucracy. We need multi-year procurement and 2-year budgeting. And frankly, we need less congressional micromanagement of our Nation's military policy.

Securing a more peaceful world is perhaps the most important priority I would like to address tonight.

We meet at a time of extraordinary hope. Never before in this century have our values of freedom, democracy, and economic opportunity been such a powerful political and intellectual force around the globe.

Never before has our leadership been so crucial, because while America has its eyes on the future, the world has its eyes on America.

It is a time of great change in the world—and especially in the Soviet Union. Prudence and common sense dictate that we try to understand the full meaning of the change going on there, review our policies carefully, and proceed with caution. But I have personally assured General Secretary Gorbachev that at the conclusion of such a review we will be ready to move forward. We will not miss any opportunity to work for peace.

The fundamental fact remains that the Soviets retain a very powerful military machine in the service of objectives that are still too often in conflict with ours. So let us take the new openness seriously. Let us step forward to negotiate. But let us also be realistic. And let us always be strong.

There are some pressing issues we must address:

I will pursue vigorously the Strategic Defense Initiative.

The spread and even use of sophisticated weaponry threatens global stability as never before.

Chemical weapons must be banned from the face of the earth, never to be used again. This will not be easy. Verification will be difficult. But civilization and human decency demand that we try.

And the spread of nuclear weapons must be stopped. I will work to strengthen the hand of the International Atomic Energy Agency. Our diplomacy must work every day against the proliferation of nuclear weapons.

And, around the globe, we must continue to be freedom's best friends.

We must stand firm for self-determination and democracy in Central America—including in Nicaragua.

For when people are given the chance, they inevitably will choose a free press; freedom of worship; and certifiably free and fair elections.

We must strengthen the alliance of industrial democracies—as solid a force for peace as the world has every known. This is an alliance forged by the power of our ideals, not the pettiness of our differences. So let us lift our sights—to rise above fighting about beef hormones to building a better future, to move from protectionism to progress.

I have asked the Secretary of State to visit Europe next week and to consult with our allies on the wide range of challenges and opportunities we face together—including East-West relations. And I look forward to meeting with our NATO partners in the near future.

I, too, shall begin a trip shortly—to the far reaches of the Pacific Basin, where the winds of democracy are creating new hope, and the power of free markets is unleashing a new force.

When I served as our representative in China just 14 years ago, few would have predicted the scope of the changes we have witnessed since then.

But in preparing for this trip, I was struck by something I came across from a Chinese writer, Lin Yutang. He was speaking of his country, decades ago—but his words speak to each of us in America tonight.

"Today," he said, "we are afraid of the simple words like goodness and mercy and kindness."

My friends, if we are to succeed as a nation, we must rediscover those words.

In just 3 days, we mark the birthday of Abraham Lincoln—the man who saved our Union and gave new meaning to the word opportunity. Lincoln once said:

"I hold that while man exists, it is his duty to improve not only his own condition, but to assist in ameliorating [that of] mankind."

It is this broader mission to which I call all Americans. Because the definition of a successful life must include serving others.

To the young people of America, who sometimes feel left out—I ask you tonight to give us the benefit of your talent and energy through a new program called YES, for Youth Entering Service to America.

To those men and women in business—remember the ultimate end of your work: to make a better product, to create better lives. I ask you to plan for the longer term and avoid the temptation of quick and easy paper profits.

To the brave men and women who wear the uniform of the United States of America—thank you. Your calling is a high one—to be the defenders of freedom and the guarantors of liberty. And I want you to know that a Nation is grateful for your service.

To the farmers of America, we appreciate the bounty you provide. We will work with you to open foreign markets to American agricultural products.

To the parents of America, I ask you to get involved in your children's schooling. Check on their homework. Go to the school, meet the teachers, care about what is happening there. It is not only your children's future on the line, it is America's.

To kids in our cities—do not give up hope. Say no to drugs. Stay in school. And, yes, "keep hope alive."

To those 37 million Americans with some form of disability—you belong in the economic mainstream. We need your talents in America's work force. Disabled Americans must become full partners in America's opportunity society.

To the families of America, watching tonight in your living rooms, hold fast to your dreams, because ultimately America's future rests in your hands.

And to my friends in this chamber, I ask for your cooperation in keeping America growing while cutting the deficit. That is only fair to those who now have no voice—the generations to come.

Let them look back and say that we had the foresight to understand that a time of peace and prosperity is not a time to rest, but a time to push forward. A time to invest in the future.

And let all Americans remember that no problem of human making is too great to be overcome by human ingenuity, human energy, and the untiring hope of the human spirit. I believe this. I would not have asked to be your President if I did not.

Tomorrow, the debate on the plan I have put forward begins. I ask the Congress to come forward with its proposals. Let us not question each other's motives. Let us debate. Let us negotiate. But let us solve the problems.

Recalling anniversaries may not be my specialty in speeches, but tonight is one of some note. On February 9, 1941, just 48 years ago tonight, Sir Winston Churchill took to the airways during Britain's hour of peril.

He had received from President Roosevelt a hand-carried letter quoting Longfellow's famous poem: "Sail on, oh ship of state. Sail on, oh union, strong and great! Humanity with all its fears, with all the hopes of future years; Is hanging breathless on thy fate!"

Churchill responded on this night by radio broadcast to a nation at war, but he directed his words to Roosevelt. "We shall not fail or falter," he said. "We shall not weaken or tire. Give us the tools, and we will finish the job."

Tonight, almost a half century later, our peril may be less immediate, but the need for perseverance and clear-sighted fortitude is just as great.

Now, as then, there are those who say it cannot be done. There are voices who say that America's best days have passed. That we are bound by constraints, threatened by problems, surrounded by troubles that limit our ability to hope.

Well, tonight I remain full of hope. We Americans have only begun on our mission of goodness and greatness. And to those timid souls, I repeat the plea—give us the tools; and we will do the job.

Thank you, and God bless you.

GEORGE BUSH.

THE WHITE HOUSE, *February 9, 1989.*

BUILDING A BETTER AMERICA—MESSAGE FROM THE PRESIDENT—PM 16

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying document; which was referred jointly to the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Affairs, the Committee on the Budget, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, the Committee on Environment and Public Works, the Committee on Finance, the Committee on Foreign Relations, the Committee on Governmental Affairs, the Committee on the Judiciary, the Committee on Labor and Human Resources, the Committee on Rules and Administration, the Committee on Small Business, and the Committee on Veterans' Affairs:

To the Congress of the United States:

I hereby transmit a supplement to the Message I am delivering to the Joint Session of the Congress tonight. It is titled "Building a Better America," and it contains further description of the plans and proposals mentioned in the Message. I urge the Congress to give favorable consideration to these proposals and renew my invitation to the congressional leadership to work together to assure that America is united, strong, at peace, and fiscally sound.

GEORGE BUSH.

THE WHITE HOUSE, *February 9, 1989.*

MESSAGES FROM THE HOUSE

Under the authority of the order of January 3, 1989, the Secretary of the Senate, on February 9, 1989, during the recess of the Senate, received a message from the House of Representatives announcing that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 14. A concurrent resolution providing for a conditional recess of the Senate from February 9, 1989 until February 21, 1989, and a conditional adjournment of the House from February 9, 1989 until February 21, 1989.

The message also announced that the House has agreed to the following resolution:

H. Res. 70. A resolution to inform the Senate that Mr. Edwards of California is excused from service as a manager for the trial of impeachment of Judge Alcee L. Hastings, and that Mr. Synar has been appointed to serve as a manager in that trial.

The message further announced that pursuant to the provisions of section 9355 of title 10, United States Code, the Speaker appoints as members of the Board of Visitors to the U.S. Air Force Academy, the following Members on the part of the House: Mr. DICKS, Mr. BARNARD, Mr. HEFLEY, and DELAY.

The message also announced that pursuant to the provisions of section 1295 of title 46, United States Code, the Speaker appoints Mr. MANTON and Mr. BUNNING as members of the Board of Visitors to the U.S. Merchant Marine Academy on the part of the House.

The message further announced that pursuant to the provisions of section 194 of title 14, United States Code, the Speaker appoints Mr. GEJE-

DENSON and Mrs. JOHNSON of Connecticut as members of the Board of Visitors to the U.S. Coast Guard Academy on the part of the House.

The message also announced that pursuant to the provisions of section 6968 of title 10, United States Code, the Speaker appoints as members of the Board of Visitors to the U.S. Naval Academy, the following Members on the part of the House: Mr. WILSON, Mr. MCMILLEN of Maryland, Mr. SKEEN, and Mrs. BENTLEY.

The message further announced that pursuant to the provisions of section 4355 of title 10, United States Code, the Speaker appoints as members of the Board of Visitors to the U.S. Military Academy, the following Members on the part of the House: Mr. HEFNER, Mr. LAUGHLIN, Mr. FISH, and Mr. LOWERY of California.

The message also announced that pursuant to the provisions of section 2101, Public Law 100-203, the Speaker appoints Mr. GRAY to the National Economic Commission on the part of the House.

The message further announced that pursuant to section 2101, Public Law 100-203, the minority leader appoints Mr. FRENZEL as a member of the National Economic Commission on the part of the House.

The message also announced that pursuant to the provisions of 15 United States Code 1024(a), the Speaker appoints as members of the Joint Economic Committee, the following Members on the part of the House: Mr. HAMILTON, Mr. HAWKINS, Mr. OBEY, Mr. SCHEUER, Mr. STARK, Mr. SOLARZ, Mr. WYLIE, Ms. SNOWE, Mr. FISH, and Mr. UPTON.

The message further announced that pursuant to Public Law 453 of the 96th Congress, as amended, the chairman of the Committee on Merchant Marine and Fisheries appoints the following members of the Committee on Merchant Marine and Fisheries to serve as members of the Board of Visitors to the U.S. Merchant Marine Academy for the year 1989: Mr. HOCHBRUECKNER, Mrs. LOWEY of New York, Mr. LENT, and Mr. JONES of North Carolina, ex officio.

The message also announced that pursuant to section 2(a), Public Law 85-874, as amended, the Speaker appoints as members of the Board of Trustees of the John F. Kennedy Center for the Performing Arts the following Members on the part of the House: Mr. YATES, Mr. WILSON, and Mr. MCDADE.

The message further announced that pursuant to the provisions of section 1505 of Public Law 99-498, the Speaker appoints to the Board of Trustees of the Institute of American Indian and Alaska Native Culture and Arts Development the following Members on the part of the House: Mr. KILDEE and Mr. YOUNG of Alaska.

The message also announced that pursuant to section 103, Public Law 99-371, the Speaker appoints as members of the Board of Trustees of Gallaudet University the following Members on the part of the House: Mr. BONIOR and Mr. GUNDERSON.

The message further announced that pursuant to the provisions of title 44, United States Code, section 2501, the Speaker appoints Mrs. BOGGS to the National Historical Publications and Records Commission on the part of the House.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BOREN, from the Select Committee on Intelligence, without amendment:

S. Res. 57. An original resolution authorizing expenditures by the Select Committee on Intelligence.

By Mr. NUNN, from the Committee on Armed Services, without amendment:

S. Res. 58. An original resolution authorizing expenditures by the Committee on Armed Services.

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. Res. 60. An original resolution authorizing expenditures by the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GARN (for himself and Mr. HATCH):

S. 393. A bill entitled the "Camp W. G. Williams Land Exchange Act of 1989"; to the Committee on Energy and Natural Resources.

By Mr. MURKOWSKI:

S. 394. A bill for the relief of Sortirios George Mastroyanis; to the Committee on the Judiciary.

By Mr. HARKIN (for himself, Mr. BUMPERS, Mr. CONRAD, Mr. MATSUNAGA, and Mr. SANFORD):

S. 395. A bill to prohibit any active duty, commissioned officer of the Armed Forces of the United States from serving as the Assistant to the President for National Security Affairs, and for other purposes; to the Committee on Armed Services.

By Mr. DECONCINI (for himself and Mr. GRASSLEY):

S. 396. A bill to amend title 11 of the United States Code, the bankruptcy code, regarding swap agreements; to the Committee on the Judiciary.

By Mr. DIXON (for himself and Mr. SIMON):

S. 397. A bill to provide assistance to small communities with ground water radium contamination; to the Committee on Environment and Public Works.

By Mr. MURKOWSKI:

S. 398. A bill to apply the deposit insurance limitation to deposits by deposit brokers; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GLENN (for himself, Mr. PRYOR, and Mr. RIEGLE):

S. 399. A bill to amend the Library Services and Construction Act to authorize the Secretary of Education to establish a program to make grants to local public libraries to establish demonstration projects using older adult volunteers to provide intergenerational library literacy programs to children during afterschool hours, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. PRYOR (for himself, Mr. REID and Mr. BOREN):

S. 400. A bill to require that all amounts saved as a result of Federal Government contracting pursuant to Office of Management and Budget Circular A-76 be returned to the Treasury, that manpower savings resulting from such contracting be made permanent, and that employees of an executive agency be consulted before contracting determinations by the head of that executive agency are made pursuant to that circular; to the Committee on Governmental Affairs.

By Mr. HOLLINGS:

S. 401. A bill to exclude the Social Security Trust Funds from the deficit calculation and to extend the target date for Gramm-Rudman-Hollings until fiscal year 1997; to the Committee on Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one committee reports, the other committee have thirty days of continuous session to report or be discharged.

By Mr. ADAMS (for himself and Mr. GORTON):

S. 402. A bill to provide for the settlement of land claims of the Puyallup Tribe of Indians on the State of Washington, and for other purposes; to the Committee on Select Committee on Indian Affairs.

By Mr. GARN (for himself and Mr. HATCH):

S. 403. A bill to authorize and amendment to a certain repayment contract for the Jensen Unit, Central Utah Project, with the Uintah Water Conservatory District, Utah, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRANSTON (for himself and Mr. MURKOWSKI):

S. 404. A bill to amend title 38, United States Code, to extend certain Department of Veterans' Affairs home loan guaranty program provisions; to the Committee on Veterans' Affairs.

By Mr. CRANSTON (for himself, Mr. DECONCINI, and Mr. MATSUNAGA):

S. 405. A bill to amend title 18, United States Code, to require the Department of Veterans' Affairs to conduct a program providing community-based residential treatment for homeless chronically mentally ill veterans and to authorize the inclusion of certain other chronically ill veterans in such program; to the Committee on Veterans' Affairs.

By Mr. JOHNSTON (for himself and Mr. MCCLURE):

S. 406. A bill to authorize competitive oil and gas leasing and development on the Coastal Plain of the Arctic National Wildlife Refuge in a manner consistent with protection of the environment, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DODD:

S. 407. A bill to require the Consumer Product Safety Commission to require the labeling of certain toys; to the Committee on Commerce, Science, and Transportation.

By Ms. MIKULSKI (for herself, Mr. NUNN, Mr. ADAMS, Mr. SANFORD, and Mr. MATSUNAGA):

S. 408. A bill to establish a corporation to administer a National volunteer service program; to the Committee on Labor and Human Resources.

By Mr. BOSCHWITZ:

S. 409. A bill to expand the availability of quality affordable child care, and for other purposes; to the Committee on Finance.

By Mr. WARNER:

S. 410. A bill to amend title 23, United States Code, to establish a program for expanding the capacity of heavily traveled portions of the National System of Interstate and Defense Highways located in urbanized areas with a population of 50,000 or more for the purposes of reducing traffic congestion, improving safety, and increasing the efficiency of the System; to the Committee on Environment and Public Works.

By Mr. BOSCHWITZ (for himself, Mr. CRANSTON, Mr. KASTEN, Mr. SYMMS, Mr. GARN, and Mr. LUGAR):

S. 411. A bill to amend the Internal Revenue Code of 1986 to restore a capital gains tax differential, and for other purposes; to the Committee on Finance.

By Mr. PACKWOOD (for himself, Mr. MOYNIHAN, Mr. DANFORTH, Mr. PRYOR, Mr. HEINZ, Mr. ROCKEFELLER, and Mr. RIEGLE):

S. 412. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the credit for expenses with respect to child care for dependent children, to make such credit refundable, to amend the Social Security Act to increase the funds for available child care, and for other purposes; to the Committee on Finance.

By Mr. DECONCINI (for himself, Mr. LAUTENBERG, Mr. SHELBY, Mr. BUMPERS, Mr. FOWLER, Mr. BREAUX, Mr. BURDICK, Mr. LEVIN, Mr. BENTSEN, Mr. DOMENICI, and Mr. GORTON):

S.J. Res. 60. Joint resolution to designate the period commencing on May 1, 1989, and ending on May 7, 1989, as "National Drinking Water Week"; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself, Mr. BAUCUS and Mr. HOLLINGS):

S.J. Res. 61. Joint resolution to designate April 1989 as "National Recycling Month"; 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. BOREN, from the Select Committee on Intelligence:

S. Res. 57. An original resolution authorizing expenditures by the Select Committee on Intelligence; to the Committee on Rules and Administration.

By Mr. NUNN, from the Committee on Armed Services:

S. Res. 58. An original resolution authorizing expenditures by the Committee on Armed Services; to the Committee on Rules and Administration.

By Mr. PELL (for himself, Mr. KENNEDY, Mr. LUGAR, Mr. SARBANES, Mr. HUMPHREY, Mr. KERRY, Mr. SIMON, Mr. MOYNIHAN, Mrs. KASSEBAUM, Mr. BOSCHWITZ, Mr. HARKIN, and Mr. DODD):

S. Res. 59. A resolution commending the Government and people of Pakistan on their return to democracy; to the Committee on Foreign Relations.

By Mr. GLENN, from the Committee on Governmental Affairs:

S. Res. 60. An original resolution authorizing expenditures by the Committee on Governmental Affairs; to the Committee on Rules and Administration.

By Mr. DIXON (for himself, Mr. HELMS, Mr. BINGAMAN, Mr. D'AMATO, Mr. BYRD, Mr. BURNS, Mr. FORD, Mr. GORE, Mr. HEINZ, Mr. HOLLINGS, Mr. LOTT, Mr. MOYNIHAN, Mr. PRYOR, Mr. RIEGLE, Mr. RUDMAN, Mr. SANFORD, Mr. SHELBY, Mr. WIRTH, Mr. GRASSLEY, Mr. COHEN, and Mr. HUMPHREY):

S. Res. 61. A resolution expressing the sense of the Senate on the sale of F-16 fighter aircraft technology from General Dynamics to Japan's Mitsubishi Heavy Industries as part of the United States-Japan FSX co-development fighter program; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GARN (for himself and Mr. HATCH):

S. 393. A bill entitled the "Camp W.G. Williams Land Exchange Act of 1989"; to the Committee on Energy and Natural Resources.

CAMP W.G. WILLIAMS LAND EXCHANGE ACT

● Mr. GARN. Mr. President, I rise to introduce legislation entitled "The Camp W.G. Williams Land Exchange Act of 1989." I am pleased that my colleague from Utah, Senator HATCH, has joined me in this effort.

This bill is virtually identical to one introduced in the last Congress by Representative HOWARD C. NIELSEN of the Third District in Utah, who has worked hard on this issue for a long time.

Essentially the bill will accomplish two things. It will:

First, overturn the National Wildlife Federation [NWF] lawsuit which has blocked numerous exchanges on public land around Utah and the country; and

Second, trade out four private inholdings within Camp Williams totaling 798 acres for public lands elsewhere of equal value.

I recognize that this legislation will only have efficacy if the recent Federal district court decision which threw out the National Wildlife Federation lawsuit is allowed to be appealed. Not knowing whether NWF's appeal will be accepted, but assuming it may be, I believe this legislation is necessary and will give the Bureau of Land Management and the Army the ability to proceed in an orderly way with the land exchange using their existing administrative authority.●

By Mr. HARKIN (for himself, Mr. BUMPERS, Mr. CONRAD, Mr. MATSUNAGA, and Mr. SANFORD):

S. 395. A bill to prohibit any active duty, commissioned officer of the Armed Forces of the United States from serving as the Assistant to the President for National Security Affairs, and for other purposes; to the Committee on Armed Services.

SERVICE AS NATIONAL SECURITY ADVISER

● Mr. HARKIN. Mr. President, civilian control of the military is a cornerstone of the American system of government. However, that cornerstone has been partially eroded away, as active duty military officers have gained influence inside the National Security Council. The Iran/Contra affair has clearly illustrated how military officers, without proper oversight, can go astray, subverting the democratic process, condoning illegal activities, and acting in defiance of established civilian foreign policy.

Banning military officers from the National Security Council would not necessarily have prevented the Iran/Contra escapades. Furthermore, we should not exclude highly qualified military personnel from serving on the NSC staff.

However, I strongly believe that the National Security Adviser to the President should be a civilian. This sensitive post, with daily direct access to the President, is too critical to be occupied by an active duty officer whose next promotion depends on the Department of Defense, one of the primary actors on the national security stage. As President Reagan's Special Review Board, chaired by John Tower, stated, the NSC adviser should be an "honest broker," providing "all reasonable options" to the President, "unalloyed by institutional responsibilities and biases."

How can we assure that the next NSC adviser could remain unbiased if he or she were employed by the Defense Department? Could we be sure that an active duty officer would present the case of the State Department with equal vigor to the Defense Department's position? And even if we found another Colin Powell, who most judged to be an excellent NSC adviser, could we avoid the appearance of conflict of interest?

Mr. President, I am introducing a bill that would prohibit active duty military officers from serving in this sensitive post. Many groups and prominent individuals have recommended that the NSC adviser be a civilian. The Iran/Contra Committee recommended that the NSC adviser "should not be an active duty military officer." Admiral Crowe, Chairman of the Joint Chiefs of Staff, stated that "I don't think an active military man should lead the NSC." And even General Powell stated that he thought the adviser should be a civilian.

Brent Scowcroft, our current NSC adviser, felt compelled to resign his commission in the Air Force before accepting the NSC post under President Ford. At the time, he said that "it was

sort of incompatible to remain on active duty as a serving officer in that kind of more impartial setting, so I felt it was necessary to resign."

This bill would not preclude obviously well-qualified individuals such as General Powell from serving our country in this important capacity. They would have to resign before serving. It would not ban active duty officers from serving on the NSC staff.

There is precedent for prohibiting military officers from serving in key executive posts. The Arms Control and Disarmament Agency law states that "No person serving on active duty as a commissioned officer of the Armed Forces of the United States may be appointed Director."

Mr. President, this is an excellent time to reaffirm our commitment to civilian control of the Military Establishment. The active players in the national security establishment, the Chairman of the JCS, the Secretary of Defense, and the incumbent NSC adviser all support the principle of a civilian in the National Security Adviser's post. Now is the time to solidify that commitment in law.●

By Mr. DECONCINI (for himself and Mr. GRASSLEY):

S. 396. A bill to amend title 11 of the United States Code, the bankruptcy code, regarding swap agreements; to the Committee on the Judiciary.

SWAP AGREEMENTS

● Mr. DECONCINI. Mr. President, today I rise along with my colleague, Mr. GRASSLEY of Iowa, to reintroduce a bill to amend the Bankruptcy Code to provide protection for the operation of interest rate and currency swap agreements when one of the parties files for bankruptcy relief.

This bill would amend section 362 to exempt swap agreements from the automatic stay provisions and amend section 647 to provide that ordinary transfers made or setoffs effected under a swap agreement immediately before a bankruptcy case cannot be set aside by a bankruptcy trustee. It would also create a new section 560 providing that the contractual right of a nondefaulting swap participant will not be stayed by any order of the bankruptcy court or otherwise under the Bankruptcy Code.

Mr. President, this bill was passed by the full Senate last Congress, however, the House did not have time to act on it in the closing hours. I am hopeful that with this early reintroduction in the Senate and with the bill's upcoming introduction in the House by Congressmen CHARLES SHUMER, HAMILTON FISH, and MIKE SYNAR that the bill's enactment into law will occur this year. The legislation is supported by the Federal Reserve Board, Securities Industry Association, Public Securities Association, New York Clearinghouse Association, International Swap Dealers Association, and others. I am not aware of any opposition to the legislation and urge my colleagues to again join with Senator GRASSLEY and myself in supporting these necessary amendments to the bankruptcy law.

I. THE INTEREST RATE AND CURRENCY SWAP MARKETS

A. BACKGROUND

Interest rate and currency swap agreements are a rapidly growing and vital risk management tool in the world financial markets. Financial institutions and corporations use swaps to minimize exposure to adverse changes in interest and currency exchange rates. Swaps can also be used, in effect, to convert a particular financial asset from fixed to floating rate and from one currency to another. Currency swaps and forward foreign exchange transactions also play an important role in international trade as a means of hedging against currency fluctuations. Dealers and users of these instruments include commercial banks, investment banks, thrift institutions, insurance companies, domestic and multinational corporations, foreign governments, and U.S. and foreign government sponsored entities. The International Swap Dealers Association has compiled statistics showing that the dollar volume of outstanding U.S. dollar-denominated swap transactions alone exceeded $541.5 billion at the end of 1987, and that an additional $155.7 billion in new agreements were entered into the first 6 months of 1988.

A typical single-currency interest rate swap transaction involves an agreement where one party agrees to make periodic payments based on a fixed rate while the other agrees to make periodic payments based on a floating rate. Payments are calculated on the basis of a hypothetical principal—or "notional"—amount and payment amounts are typically netted—even in the absence of default—on common payment dates. The principal or notional amounts generally are not transferred. The term of swap transactions generally ranges from 1 to 12 years.

Swap transactions are widely used by institutions, including thrift institutions, to manage mismatches between their assets and liabilities. For example, an entity that has substantial short-term floating rate liabilities and long-term relatively fixed rate financial assets has substantial interest rate exposure. In a rising interest rate environment, the entity may suffer losses as the cost of its short-term floating rate liabilities rise, above the fixed returns on its assets. To hedge this risk and "lock-in" a positive spread between the rate it receives on its assets and the rate it is required to pay on its liabilities, that entity can enter into an interest rate swap in which it will make fixed-rate payments—which can be funded by its fixed-rate assets—and will receive floating rate payments—which will rise or fall along with its floating rate liabilities.

An entity with a relatively low-credit rating not only can reduce its market risk through a swap transaction but can also lower its borrowing costs by entering into swaps with an entity with a higher credit rating. Certain institutions, either because of better credit ratings or better market recognition, have a comparative advantage in borrowing in the fixed-rate markets. Other institutions may be unable to obtain long-term fixed rate financing at acceptable rates, but will be able to obtain short-term floating-rate funds. Through the use of swaps, however, that institution will often be able to obtain favorable long-term fixed rates. Because the credit exposure on a swap is relatively small compared to a traditional loan of principal, entities with higher credit ratings are often more willing to enter into long-term swaps than long-term loans with lower-rated entities.

A party to a swap transaction may enter into a swap directly with another principle end-user. More commonly, however, it enters into a swap with a commercial or investment bank that acts as a dealer in swaps. The dealer will often act as a principal, creating a portfolio of swaps. By standing ready to enter into swaps with any qualified party at any time, swap dealers provide important liquidity for the swaps market.

B. THE MASTER AGREEMENT

Now, Mr. President I will turn to the problems that this bill is designed to address.

The International Swap Dealer Association has developed a master swap agreement that is used by most swap participants. A fundamental provision of the master agreement is that, upon termination of the agreement for default, all transactions between the parties are terminated, a single net amount due is determined, and the amount due the nondefaulting party is paid by the defaulting party. The immediate termination for default and the netting provisions are critical aspects of swap transactions. The immediate termination of all outstanding transactions is necessary for the protection of all parties in light of the potential for rapid changes in the financial markets. The provisions allowing netting of the termination values of all transactions between the parties is a fundamental aspect of swap transactions, particularly for the financial intermediaries who may have numerous transactions with one counterparty under a single master agreement.

I have become concerned about the impact of the Bankruptcy Code on these critical provisions of swap agree-

ments. In particular I am concerned that the automatic stay provision of the Bankruptcy Code could be interpreted to bar immediate termination of outstanding transactions, creating a risk of exposure to rapid change in the market. I am also concerned that, even where all transactions between two parties are conducted under a single master agreement, a bankruptcy trustee could try to "cherrypick" by assuming favorable transactions while rejecting unfavorable ones.

Although many believe that under existing statutory provisions and case law netting should be enforced under the Bankruptcy Code, the issue has never been expressly addressed by a court and, accordingly cannot be free from doubt. We cannot afford to leave this question in doubt. If netting is not allowed—and the debtor is permitted to cherrypick—the potential exposure for nondefaulting parties is drastically increased. In this day of volatile financial markets, we cannot permit one bankruptcy to undermine the basic function of a market as large and important as the swaps market.

II. PROPOSED CHANGES

The changes I proposed address three specific problems. These are (a) the impact of the automatic stay on the enforcement of the contractual rights to terminate a defaulted contract; (b) the right to net positive and negative exposures with one counterparty; and (c) the impact of the Bankruptcy Code on normal prebankruptcy activities, such as the setoff of mutual claims and debts and the potential exposure of ordinary prebankruptcy transfers to later preference recovery.

These changes closely parallel those enacted in 1982 and 1984 by Congress for securities contracts, forward contracts, commodity contracts, and repurchase agreements. The same reasons that led Congress to enact those amendments support the amendments I am introducing today.

The bills' definition of the term "swap agreement" is based on the interest rate contract and exchange rate contract definitions adopted by the Basle Committee on Banking Regulations and Supervisory Practices. The Basle Committee is comprised of representatives of the central banks and supervisory authorities of the United States and 10 other major countries. The Basle Committee definitions were adopted as part of a report establishing an international framework for implementation of uniform capital measurement and capital adequacy standards for banks. The standards utilize the interest rate contract and exchange rate contract definitions in measuring the off-balance sheet risk that arises from participation in swap market transactions. As such, these definitions represent an international regulatory consensus concerning the types of transactions that should be treated as swap agreements and, thus, an appropriate basis for the bill's definition of that term. Consistency between the bill's swap agreement definition and the Basle Committee definitions also should promote the realization of the overall objective of assuring the safety and soundness of the international financial system.

One consequence of this consistency, however, is that the swap agreement definition includes certain types of contracts that already are covered by other provisions of the code. For example, the definition includes forward foreign exchange agreements, which also are subject to the forward contract provisions of the code. A forward contract basically is any contract for the purchase, sale or transfer of a commodity with a maturity date more than 2 days after the contract is entered into. For purposes of the forward contract definition, the term "commodity" includes any good, article, service, right or interest that is the subject of a forward contract transaction. All foreign currencies satisfy one or more of these criteria. Accordingly, forward foreign exchange agreements are forward contracts for purposes of the code. The swap agreement definition in this bill is not intended to affect in any way the status of a forward foreign exchange agreement, or any other contract, as a forward contract under the code.

A. AUTOMATIC STAY PROVISIONS

The automatic stay of section 362 of the Bankruptcy Code bars a party from taking any action to interfere with the property of the bankrupt estate. It is possible that a bankruptcy court could interpret this provision to stay a nondefaulting party from taking action either to terminate a swap or forward foreign exchange agreement with a debtor or to net offsetting exposures, at least without first obtaining authority from the bankruptcy court.

Obtaining such authority necessarily takes some time, often many weeks or months. Any delay in obtaining authority to terminate outstanding transactions and to net offsetting exposures would create unreasonable risks for the nondefaulting party. The interest rate and currency exchange markets often move rapidly and, given the substantial volume of transactions, any type of delay following a bankruptcy filing would impose unreasonable risks of loss on the participants in the market. Following a default, and absent a stay, a prudent counterparty would immediately terminate all transactions with a debtor so as to fix its exposure and would simultaneously enter into separate transactions to hedge that exposure. The possibility that the automatic stay would prevent such termination—possibly for weeks or months—creates a threat of a substantial increase in the nondefaulting party's exposure to the debtor and generally complicates any effort to hedge that exposure.

The unfairness of this result can be shown by an example. First assume that two parties had entered into a single interest rate swap transaction under a master agreement. Assume also that the defaulting party receives fixed rate payments and makes floating rate payments based on a notional amount of $50 million. If that party files for relief under the Bankruptcy Code, absent the potential application of the automatic stay, the nondefaulting party could fix its exposure based on then-current interest rates and enter into a new transaction to hedge that exposure.

The situation is far more uncertain if the stay applies. If the nondefaulting party were certain that the debtor would default, it would hedge its exposure and lock in its position; if it were certain that the debtor would perform, it could do nothing. But the uncertainty as to whether the transaction will be assumed would likely force the nondefaulting party to hedge, thereby incurring the cost of a new transaction and depriving it of the benefits of its original bargain. Moreover, if the nondefaulting party has hedged the original transaction—as is often the case—it could be faced with an uncovered open position depending on the ultimate decision on assumption or rejection made by the debtor, a decision that the debtor may not make for a number of months.

The risks of cherry picking can be shown by a second example. Assume that two parties had entered into two transactions under a single master agreement. As is often the case, the parties are on opposite sides in the two transactions, so that the defaulting party receives fixed-rate payments under the first agreement and variable rate payments under the second. Assume further that each transaction has a current market value of $1 million. In such circumstances, the net position between the parties is zero and if both transactions were terminated simultaneously, no payment would be made to either party. Now assume that one of the parties becomes the subject of a case under the Bankruptcy Code. If the court failed to give effect to the termination and netting provisions of the master swap agreement, the debtor arguably could assume the favorable transaction, while rejecting the unfavorable transaction. The debtor's estate would then continue to receive payments from the nondebtor under the favorable transaction, while the nondebtor would be left with an unsecured claim for damages with respect to the rejected transaction, which is unlikely to be satisfied in full.

Congress has long recognized the need for certainty and speed in the volatile securities and financial markets. Section 60e of the former Bankruptcy Act (11 U.S.C. section 96e) provided special treatment for stockbroker bankruptcies, creating a separate fund for stockbroker customers with priority over general creditors. These provisions were carried forward into the stockholders and commodity broker provisions of chapter 7 when the Bankruptcy Code was enacted in 1978.

As new financial instruments have been developed, Congress has recognized the need to amend certain aspects of the Bankruptcy Code in order to continue to provide the necessary speed and certainty in complex financial transactions. In 1982 and again in 1984 Congress amended section 362 to exempt the termination and setoff of mutual debts and claims arising under securities contracts, forward contracts, commodity contracts and repurchase agreements. The 1982 amendments were "intended to minimize the displacement caused in the commodities and securities markets in the event of a bankruptcy affecting these industries," recognizing the "potential volatile nature of the markets." 128 CONGRESSIONAL RECORD H 261 (daily ed. Feb. 9, 1982). The same rationale supported the 1984 amendments.

These protections should be extended to the swap and forward foreign exchange agreements for the same reasons that they were provided for securities contracts, forward contracts, commodity contracts and repurchase agreements. Permitting the prompt termination and exercise of netting rights reduces the potential market impact of a bankruptcy filing by allowing immediate action as contemplated by the standard agreements. This exception does not interfere with the basic operation of the Bankruptcy Code, since section 553 of the code already preserves the right of setoff, although requiring a court hearing. The volatility of the interest rate and currency exchange markets makes the risk of delay pending such a court hearing unreasonable and detrimental both to the debtor, which could incur additional losses if open transactions turn unfavorable, as well as to the nondefaulting party.

B. RIGHT TO TERMINATE

Both the 1982 and the 1984 amendments provide that the contractual right of a nondefaulting party to terminate a securities contract, forward contract, commodity contract, or repurchase agreement will not be stayed by any order of the bankruptcy court or otherwise under the Bankruptcy Code. This provision essentially assures counterparties that they will not be exposed to an effort by a bankruptcy trustee to assume these agreements under section 365 of the Bankruptcy Code.

A similar assurance is needed for swap participants. In a volatile interest and currency exchange rate environment, a requirement that the counterparty keep open transactions awaiting such a decision risks imposing additional losses either on the nondefaulting party or on the debtor's estate at a time when the estate should be reducing its market exposure.

The right to terminate open transactions is particularly needed in light of the size of the swap market. As Congress recognized at the time of the 1982 and 1984 amendments, counterparties could be faced with substantial losses if forced to await a bankruptcy court decision on assumption or rejection of financial transaction agreements. Unlike ordinary leases or executory contracts, where the markets change only gradually, the financial markets can move significantly in a matter of minutes. The markets will not wait for a court decision on whether a debtor can cure, assume, or provide adequate assurance of future performance of such agreements. There is a clear need for Congress to assure counterparties that they will be able to terminate these agreements and exercise contractual liquidation and netting rights if a party to the agreement files for bankruptcy relief.

C. SETOFF AND PREFERENCE PROVISIONS

The 1982 and 1984 amendments provide that ordinary transfers made or setoffs effected under a securities or repurchase agreement immediately before a bankruptcy case cannot be set aside by a bankruptcy trustee. This is an exception to the preference provisions of section 547 and to the preference provisions of the setoff statute—section 553(b)(1)—which generally discourages setoffs before bankruptcy in ordinary commercial transactions.

The exception created by the 1982 and 1984 legislation recognizes that protections for payments made and setoffs effected under securities and other financial agreements are needed in order to preserve the functioning of the market. Similarly, in swap and foreign exchange transactions, it is important to eliminate any concern that Bankruptcy Code provisions could be read to preclude the exercise of contractual rights of the prebankruptcy netting or setoff. This is particularly important to swap participants since netting is the normal, intended course of dealing in swap transactions unlike ordinary commercial transactions, where setoff is an extraordinary remedy. While the setoff preference provision of section 553(b)(1) is designed to discourage bank account setoffs that may precipitate a bankruptcy filing, its operation in the swap market could materially interfere with customary operation of the market. For these reasons, swap agreements and forward foreign exchange transactions should be granted the same exception from ordinary preference rules and from the preferenced provisions of section 553(b)(1) as Congress has accorded securities contracts and other financial agreements.

I urge my colleagues to join with Senator GRASSLEY and myself in supporting these necessary amendments to the bankruptcy law. 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. 396

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of title 11, United States Code, is amended by—

(1) redesignating paragraphs (49), (50), and (51) as paragraphs (51), (52), and (53) respectively; and

(2) inserting between paragraphs (48) and (51), as redesignated herein, the following:

"(49) 'swap agreement' means an agreement, including terms and conditions incorporated by reference therein, which is a rate swap agreement, basis swap, forward rate agreement, interest rate future, interest rate option purchased, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency future, currency option purchased including any option to enter into any of the foregoing or any other similar agreement or combination thereof, and a master agreement for any of the foregoing together with all supplements shall be considered one swap agreement;

"(50) 'swap participant' means an entity that, on any day during the period beginning 90 days before the date of the filing of the petition, has an outstanding swap agreement with the debtor,".

SEC. 2. Section 362(b) of title 11, United States Code, is amended by—

(1) striking out "or" at the end of paragraph (12);

(2) striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or"; and

(3) inserting at the end thereof the following:

"(14) under subsection (a) of this section, of the setoff by a swap participant, of any mutual debt and claim under or in connection with one or more swap agreements that constitutes the setoff of a claim against the debtor for any payment due from the debtor under or in connection with swap agreements against any payment due to the debtor from the swap participant under or in connection with the swap agreements or against cash, securities, or other property of the debtor held by or due from such swap participant to guarantee, secure or settle swap agreements.".

SEC. 3. Section 546 of title 11, United States Code, is amended by adding at the end thereof the following:

"(g) Notwithstanding sections 544, 545, 547, 548(a)(2) and 548(b) of this title, the trustee may not avoid a transfer under a swap agreement, made by or to a swap participant, in connection with a swap agreement and that is made before the com-

mencement of the case, except under section 548(a)(1) of this title.".

SEC. 4. Section 548(d)(2) of title 11, United States Code, is amended by—

(1) striking out "and" at the end of subparagraph (B);

(2) striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following:

"(D) a swap participant that receives a transfer in connection with a swap agreement, as defined in section 101(49) of this title, takes for value to the extent of such transfer.".

SEC. 5. Section 553(b)(1) of title 11, United States Code, is amended by inserting "362(b)(14)," after "362(b)(7),".

SEC. 6. Subchapter III of chapter 5 of title 11, United States Code, is amended by adding at the end thereof the following:

"§ 560. Contractual right to terminate a swap agreement

"The exercise of any contractual rights of a swap participant to cause the termination of a swap agreement because of a condition of the kind specified in section 365(e)(1) of this title or to set off or net out any termination values or payment amounts arising under or in connection with one or more swap agreements shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by order of a court or administrative agency in any proceeding under this title. As used in this section, the term 'contractual right' includes a right, whether or not evidenced in writing, arising under common law, under law merchant or by reason of normal business practice.".●

By Mr. DIXON (for himself and Mr. SIMON):

S. 397. A bill to provide assistance to small communities with ground water radium contamination; to the Committee on the Environment and Public Works.

ASSISTANCE FOR COMMUNITIES WITH GROUND WATER CONTAMINATION.

● Mr. DIXON. Mr. President, in February of last year I introduced S. 2060, a bill to provide assistance to small communities with ground water radium contamination. I am pleased to say that my bill passed the Senate as part of the Senate ground water bill. Unfortunately, that bill was prevented from becoming law when both Houses failed to reach a conference agreement. In the meantime, the plight of nearly 1,000 small towns without the resources to remove radium from their drinking water supply goes on.

Radium is a naturally occurring carcinogen for which the Environmental Protection Agency has determined maximum contaminant levels. It can be very costly for communities to come into attainment with EPA's radium standard. Small municipal water supplies may need to shell out as much as $150,000 to $15 million worth of improvements to their systems in order to comply with the Federal standard. In my State of Illinois alone, there are 84 communities with populations under 20,000 whose municipal water exceeds the maximum contaminant level. It is estimated that it will cost these small towns in my State $100 million to make the necessary improvements.

There is no way that towns of this size can finance this kind of project. There are many folks in these areas, in my State, and I am sure in other areas where radium naturally occurs, that are willing to take their chances and continue to drink the water as it is. Some believe the EPA's standard is too strict. But these towns have no choice—they must make these costly expenditures to their systems or face substantial fines by the Federal Government.

For this reason, on behalf of the small communities all across America, I am pleased to reintroduce today, along with my good friend and colleague, PAUL SIMON, the radium removal demonstration program.

This bill will assist local communities in radium abatement at very little cost to the Federal Government. The $20 million this bill authorizes over 3 years would not be used for direct grants. Instead, recipients would be able to use the money to provide insurance and prepay interest for local obligations. State agencies would be the actual recipients of the money, and would use that money to buy down interest rates for qualifying communities undertaking radium abatement projects. By reducing the overall financial burden on municipalities, each Federal dollar used maximizes what a local government can afford to pay at a 10-to-1 ratio.

It is not often that Federal dollars can be stretched so effectively to provide for a legitimate public need. We are talking about helping communities who are making good faith efforts to come into compliance with Federal mandates. We are not talking about helping big cities that can afford expenditures of this size. To qualify, a town must not exceed a population of 20,000. We are not talking about providing money to private water companies. Only municipal systems will be eligible for assistance.

In these days when the Federal deficit looms large over our heads, it is appropriate that we think carefully about what is proper Government activity, and about which social needs are best left for the States and the marketplace to meet. This must be done before we make even relatively small obligations of Federal funds, such as the one I am proposing today. Mr. President, I am convinced that it is the role of the Federal Government to assure that every American has safe water to drink. It is not good enough, however, for the Federal Government to simply set standards and then turn a deaf ear to the problems local governments have in meeting those standards. It is also the Federal Government which must make sure small communities will have the ability to clean up their water.

I urge my colleagues to join me in helping small communities help themselves to obtain safe drinking water.●

By Mr. MURKOWSKI:

S. 398. A bill to apply the deposit insurance limitation to deposits by deposit brokers; to the Committee on Banking, Housing, and Urban Affairs.

BROKERED DEPOSITS ACT

Mr. MURKOWSKI. Mr. President, today I am introducing a bill to limit the use of federally insured brokered deposits.

A brokered deposit is a federally insured certificate of deposit [CD] that is marketed nationwide by a financial institution to investors through the use of a broker. These deposits are presently federally insured up to $100,000 per depositor, per institution.

My bill would limit the total amount of insured deposits that could be placed by a broker to $100,000 per financial institution that does not meet the minimum capital requirements of the FDIC or FSLIC. Under my bill a single broker or firm could place no more than a total of $100,000 of federally insured brokered deposits in any one financially troubled institution. At present, there is no limit on the total amount of insured brokered deposits that can be placed in any institution.

USE OF BROKERED DEPOSITS

Advances in technology and recent legislative and regulatory advances have given rise to a CD brokerage industry. Ceilings on interest rates were removed; and issuance of CD's in negotiable form were permitted along with fees to pay brokers for obtaining the CD's.

Deposit brokers assist large institutional customers and smaller individual investors in placing their fund in CD's, none of which, in any financial institution, exceed the value of $100,000—the limit on Federal deposit insurance.

Investors like the CD's because of their safety and competitive yields; financial institutions find them a cost effective way to ease liquidity problems; and brokers enjoy the fees that CD's generate.

NEGATIVE EFFECTS ON INSURANCE FUNDS AND INDUSTRY

Although popular, brokered deposits have some extremely harmful side effects. They drain FSLIC and FDIC deposit insurance funds, inflate banking costs, take money away from local communities, encourage funds to flow to poorly managed and financially troubled institutions, and conflict with the intended purpose of Federal deposit insurance.

Federal deposit insurance was originally established in order to provide depositors with a safe place for their savings. It was seen as a way for the

Federal Government to direct money into areas it deemed worthwhile—namely, affordable home loans. The depositor, in return for safety, would receive a lower rate of interest which in turn would lower the rate of interest charged by a bank or thrift on a home loan.

Instead, federally insured brokered funds have distorted the intended purpose and use of Federal deposit insurance. They give investors a no-risk higher than average rate of return, and force financial institutions into speculative ventures.

When financial institutions use brokered deposits they do so at a high price, quite often at the expense of the FSLIC and FDIC insurance funds. With the help of brokers, institutions enter national markets by offering insured CD's at rates that are normally higher than local market rates. Since the CD's are insured, investors look to the high rate of return, not the soundness of the institution, when purchasing the CD's. This causes substantial sums of insured deposits to flow into poorly managed institutions. While this may initially prolong their life span, it greatly increases the exposure of and ultimate loss to the FDIC or FSLIC funds, or the Federal Treasury.

Nearly $1.5 billion in insured brokered deposits were part of FDIC insurance payoffs or assistance payments over the past 4½ years. The potential for further losses is even greater. Roughly $2 billion of the $11 billion in FDIC brokered funds presently sit in FDIC problem banks. Not surprisingly, problem banks use brokered funds more extensively than well-rated institutions. FDIC numbers show that the percentage of brokered funds of total deposits in problem banks is 2½ times greater than that in healthy banks. The FSLIC has no current numbers, but in its June 1985 hearing before the Senate Banking Committee it stated that over 50 percent of its most troublesome thrifts had high levels of brokered funds.

The use of brokered deposits can unduly harm local competitor institutions. When a bank brokers its CD's nationwide it typically prices its regular local CD's at a higher than market rate, but below its nationwide brokered rate. Other local banks are then forced to raise their own rates or experience a deposit decline. This leads to lower profitability which in turn increases the number of troubled banks and added costs to the insurance funds.

Time to address problem—personal experience in industry Mr. President, today I join with other respected leaders, both in Government and in the financial community, in calling for a halt to the imprudent growth of deposits in undercapitalized institutions. Perhaps more than others, however, I am particularly attuned to the crisis that confronts the Federal Deposit Insurance funds and the banking and thrift industries. Before coming to the Senate, I had the privilege of spending over 20 years in the banking industry.

My bill seeks to restore the provisions of a similar 1984 FDIC and Federal Home Loan Bank Board regulation that was subsequently overruled in a Federal court case as an invalid exercise of authority.

My bill will help the insurance funds adjust to some of the unforeseen problems caused to it by advanced technology and recent deregulation. Federal insured deposit funds were never intended to be used to attract no-risk investment opportunities, especially in unsound institutions. Rather, they were created after the crash of 1929 and the Great Depression of the 1930's to insure depositor safety, primarily in financial institutions.

CONSTRUCTIVE FIRST STEP

My bill is a modest first step that will help preserve FSLIC and FDIC insurance funds and keep banking and thrift costs down. This bill will not cure this Nation's deposit insurance crisis by itself, but it will provide a constructive first step in returning stability to our banking and thrift industries.

The problem with the thrift industry, Mr. President, goes back to deregulation. It was the death knell for the S&L's.

The S&L's were chartered to provide long-term, cheap mortgage rates. Suddenly we deregulate and they had to go out and complete for their deposits. As a consequence, they could not change their long-term interest rates and, basically, the squeeze was on.

Mr. President, I ask that this body support my bill. It will enhance the security of our Federal deposit insurance system and bring us closer to the basic free market principles that encourage the flow of capital to institutions that inspire investor confidence.

By Mr. GLENN (for himself, Mr. PRYOR, and Mr. RIEGLE):

S. 399. A bill to amend the Library Services and Construction Act to authorize the Secretary of Education to establish a program to make grants to local public libraries to establish demonstration projects using older adult volunteers to provide intergenerational library literacy programs to children during afterschool hours, and for other purposes; to the Committee on Labor and Human Resources.

INTERGENERATIONAL LIBRARY LITERACY ACT

● Mr. GLENN. Mr. President, today, along with my colleagues, Senator PRYOR and Senator RIEGLE, I rise to introduce S. 399, the Intergenerational Library Literacy Act. An identical bill is being introduced in the House of Representatives by Congresswomen OLYMPIA J. SNOWE. The purpose of our legislation is to assist libraries faced with growing numbers of latchkey children who are being left unattended by working parents who cannot afford or cannot find adequate day care.

We have heard a great deal about latchkey children—children who return to empty homes after school. More recently, we have learned of the growing number of library latchkey children—children who regularly spend their afterschool hours in public libraries. A 1988 study by the American Library Association indicates that one of the most rapidly developing public library issues is what to do about library latchkey children. Although libraries are committed to serving the needs of children, they are not prepared to deal with the great numbers of unsupervised children who, on a regular basis, are spending extended time in libraries as a means of afterschool day care.

The Intergenerational Library Literacy Act amends the Library Services and Construction Act by authorizing a demonstration project that allows libraries to apply for title VI literacy program grants to develop programs using older volunteers to provide afterschool literacy and reading skills programs for latchkey children. Further, it amends the Domestic Volunteer Service Act by establishing intergenerational library literacy programs as Programs of National Significance, thus permitting the Retired Senior Volunteer Program [RSVP] to target its efforts toward these programs and to establish a group of volunteers for use in libraries. Funding would come from the existing moneys set aside for title VI literacy programs. No new funds would be authorized by passage of this legislation.

Members of our growing elderly population have a great deal to contribute to our society, and I can think of no better way to put their talents to use than by helping our Nation's children. Using older volunteers, such as participants in the Retired Senior Volunteer Program [RSVP], to provide literacy and other programs for children benefits all of us. It provides a meaningful way for older Americans to share their talents, it greatly benefits the children who receive both assistance in developing reading skills and special attention from an older adult, it helps the staffs of public libraries who are taking time from their other duties to supervise latchkey children, and it is addressing our Nation's growing need for day care given the increasing number of women who are working.

I urge my colleagues to join me in working for congressional passage of the Intergenerational Library Literacy Act.

Mr. President, I request that the text of the bill be printed in the RECORD at this point.

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

S. 399

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 "Intergenerational Library Literacy Act".

SEC. 2. INTERGENERATIONAL LIBRARY LITERACY DEMONSTRATION GRANTS.

Title VI of the Library Services and Construction Act (20 U.S.C. 375) is amended by adding at the end the following new section:

"INTERGENERATIONAL LIBRARY LITERACY DEMONSTRATION GRANTS

"SEC. 602. (a) GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary may make grants to local public libraries to establish demonstration projects to provide intergenerational library literacy programs for school children during afterschool hours.

"(2) LIMITATION ON AMOUNT OF GRANT.—The aggregate amount of grants under this section to a local public library may not exceed $40,000.

"(3) INELIGIBILITY OF LIBRARIES RECEIVING GRANTS UNDER SECTION 601.—The Secretary may not make a grant to a local public library under this section in any fiscal year in which the library has received a grant under section 601.

"(b) REQUIREMENTS OF DEMONSTRATION PROJECTS.—Each local public library that receives a grant under this section shall establish a demonstration project as follows:

"(1) NEW PROGRAMS.—The local public library shall use funds from a grant made under this section only to establish and administer new intergenerational library literacy programs and may not use the funds to assist or expand similar ongoing programs relating to literacy.

"(2) MULTIPLE LOCATIONS.—The local public library shall, to the extent possible, provide intergenerational library literacy programs in a variety of locations throughout the area served by the library.

"(3) AFTERSCHOOL HOURS.—The local public library shall provide intergenerational library literacy programs only during afterschool hours.

"(4) OLDER ADULT VOLUNTEERS.—In the provision of intergenerational library literacy programs, the local public library shall utilize older adult volunteers and older adult volunteer programs and may utilize other community volunteer resources.

"(5) OLDER ADULT ROLE MODELS.—In the provision of intergenerational library literacy programs, the local public library shall emphasize and provide examples of positive older adult role models (by example and through the provision of information) for the participating children.

"(6) 1-YEAR DURATION.—The local public library shall design and organize the demonstration project so that any funds received from any grant under this section are expended not later than the expiration of the 1-year period beginning on the date that the library first receives funds from a grant under this section.

"(7) EVALUATION AND REPORT.—The local public library shall conduct an evaluation regarding the demonstration project established pursuant to a grant under this section and the effect of the intergenerational library literacy programs on the participating children, and shall submit to the Secretary, not later than 18 months after the library first receives funds from a grant under this section, a report regarding the evaluation.

"(c) APPLICATION AND SELECTION OF GRANT RECIPIENTS.—

"(1) APPLICATION.—To receive a grant under this section, a local public library shall submit an application as the Secretary may require, which shall include the following:

"(A) CERTIFICATION OF FULFILLMENT OF REQUIREMENTS OF DEMONSTRATION PROJECT.—Certification that the local public library will fulfill the requirements of subsection (b).

"(B) DESCRIPTION OF PROGRAMS.—A description of the intergenerational library literacy programs to be established and administered under the demonstration project.

"(C) DEMONSTRATION OF NEED.—A statement demonstrating the presence in the area served by the local public library of unsupervised school children who could benefit from a literacy program and interaction with older adults.

"(2) SELECTION.—

"(A) IN GENERAL.—The Secretary shall select local public libraries to receive grants under this section from libraries that have applied under paragraph (1), and may select only libraries that meet the criteria for selection established under subparagraph (B).

"(B) CRITERIA FOR SELECTION.—

"(i) ESTABLISHMENT.—The Secretary shall establish criteria for the selection of local public libraries to receive grants under this section.

"(ii) PREFERENCE FOR LIBRARIES USING GRANTS TO ESTABLISH ONGOING PROGRAMS.—The criteria established under clause (i) shall require that, in making grants under this section, the Secretary shall give preference to any local public library that includes in the application under paragraph (1) a plan for the continued operation of the intergenerational library literacy programs after the time at which the funds received by the library from grants under this section have been expended.

"(d) REPORTS.—Not later than the expiration of the 3-year period beginning on the date that the Secretary shall submit to the Congress a report setting forth the findings and conclusions of the Secretary regarding the demonstration projects established with grants made under this section. The report shall include any recommendations of the Secretary regarding the establishment of a permanent program to develop intergenerational library literacy programs in local public libraries.

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

"(1) DEMONSTRATION PROJECT.—The term 'demonstration project' means a project established and administered by a local public library under subsection (b) that consists of intergenerational library literacy programs.

"(2) INTERGENERATIONAL LIBRARY LITERACY PROGRAM.—The term 'intergenerational library literacy progam' means a program using older adults to increase literacy, improve reading skills, or encourage reading for unsupervised school children, established under subsection (b).

"(3) OLDER AUDLT.—The term 'older adult' means any individual who is 60 years of age or older.

"(4) SCHOOL CHILDREN.—The term 'school children' means children who are of the ages appropriate for or attend school in a grade not higher than 12.

"(f) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section.".

SEC. 3. AMENDMENTS TO STATE AND LOCAL LIBRARY GRANTS PROGRAM.

(a) INELIGIBILITY OF LOCAL PUBLIC LIBRARIES RECEIVING GRANTS UNDER SECTION 602.—Section 601 of the Library Services and Construction Act (20 U.S.C. 375) is amended by adding at the end the following new subsection:

"(f) The Secretary may not make a grant to a local public library under this section in any fiscal year in which the library has received a grant under section 602.".

(b) CONFORMING AMENDMENTS.—Section 601 of the Library Services and Construction Act (20 U.S.C. 375) is amended—

(1) by striking "title" each place it appears and inserting "section"; and

(2) in subsection (c), by inserting "under this section" after "libraries".

SEC. 4. PROGRAMS OF NATIONAL SIGNIFICANCE UNDER RETIRED SENIOR VOLUNTEERS PROGRAM.

(a) IN GENERAL.—Part A of title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5001 et seq.) is amended by adding at the end the following new section:

"PROGRAMS OF NATIONAL SIGNIFICANCE

"SEC. 202. In making grants under section 201 and determining the amount of the grants, the Director shall give priority to programs of national significance, such as volunteer programs in libraries during afterschool hours to provide literacy and reading skills training for children whose parents are not at home during afterschool hours.".

(b) CONFORMING AMENDMENT.—The table of contents in the 1st section of the Domestic Volunteer Services Act of 1973 (42 U.S.C. 4950 prec.) is amended by inserting after the item relating to section 201 the following new item:

"Sec. 202. Programs of national significance.".●

By Mr. PRYOR (for himself, Mr. REID, and Mr. BOREN):

S. 400. A bill to require that all amounts saved as a result of Federal Government contracting pursuant to Office of Management and Budget Circular A-76 be returned to the Treasury, that manpower savings resulting from such contracting be made permanent, and that employees of an executive agency be consulted before contracting determinations by the head of that executive agency are made pursuant to that circular; to the Committee on Governmental Affairs.

COMMERCIAL ACTIVITIES CONTRACTING ACT

● Mr. PRYOR. Mr. President, I rise today to introduce the Commercial Activities Contracting Act of 1989 on behalf of myself and Senators REID and BOREN.

Our bill would return all cost savings resulting from A-76 contracting out to the Treasury, to be applied to reduce the budget deficit. Circular A-76 was issued by the Office of Management and Budget [OMB] to increase the contracting out of Government activities.

Let me state, from the start, this legislation is not intended to reduce or eliminate contracting out. The bill makes no judgment as to whether the push to contract out should be limited

or expanded. The Bush administration would be free to continue the contracting out efforts of the previous administration, or to come up with a new approach.

Our intent is to find ways to harness the savings generated from the process and put those savings to work reducing the Federal deficit. That, unfortunately, is not what we are seeing today.

According to the Congressional Budget Office and the President's Office of Management and Budget, millions and perhaps billions of dollars have been saved in recent years by contracting out over $36 billion of Government activities to the private sector.

Most Americans and, I dare say, most Senators, reasonably assume these savings go directly back to the Treasury. That makes sense. But because of a loophole—the size of a Swiss bank account—that is not the current practice.

A more likely scenario is this: An agency is told to cut costs by allowing the private sector to compete for one of its operations. A private bidder who says he can do the job for less wins the contract. The agency reports that it has saved the taxpayers x dollars. This good government story then sours because the reported savings disappear into the agency's coffers, as kind of a slush to be reallocated as the agency pleases.

Thus, a penny saved by contracting out is not a penny saved at all, it is a penny spent elsewhere on favorite projects; a project Congress may have considered and rejected.

One of the advantages I hope will result from our legislation is that the Government will keep better tabs on contractors. An agency forced to return contractor savings to the Treasury will make very sure the contractor delivers on its promise. We will be better able to ensure that we get the best deal for the taxpayer and that we are not just contracting out in order to meet some arbitrary goal set by OMB. Contracting out should have as its No. 1 goal saving money, not just the hiring of more consultants and contractors.

Finally, the bill will require the submission of actual figures on the amount of money saved by contracting out, rather than numbers that are cooked up to make the process look good.

Mr. President, the Subcommittee on Federal Services, Post Office and Civil Service, which I chair, held hearings on this legislation in the last Congress.

We heard from employee representatives who vividly outlined situations that did not, in our view, fully meet the cost and efficiency goals of the A-76 contracting out policy. The subcommittee heard from Members of Congress who reported on contracting out actions in their States which went bad.

We also heard from OMB, which is responsible for the implementation of the circular, and the Department of Defense, which performs a majority of the contracting out activity of the Federal Government.

Everyone is agreed that, given the urgency of the need to get the Federal budget deficit under control, it is crucial the A-76 program be run effectively. We agree that contracting out, when done properly, can save the Government money and increase efficiency. However, many of us are concerned by cases, such as the ones this subcommittee heard about in the last Congress, which indicate the government is actually wasting money by poorly administering the contracting out process.

Mr. President, I should also note that the Congress reformed one part of the A-76 process last year with an amendment to the Federal Employees' Retirement System Act of 1986. That amendment will require both contractors and Federal employees to include all retirement costs in contract bids to reflect actual costs. The change was suggested by OMB and seconded by the General Accounting Office [GAO]. I am hopeful this has helped to level the playing field and increase the likelihood that we will save, not waste, taxpayer dollars.

The bill we are introducing today makes a far more fundamental improvement in the contracting out system. We require savings generated by contracting out to be identified and returned to the Treasury for deficit reduction.

Mr. President, I will finish by noting that witnesses from the contractor industry testifying before the subcommittee in the 100th Congress suggested that this proposal might have a downside. While they generally supported the legislation, they suggested that allowing an agency to retain some of the contracting out savings would provide a necessary incentive to the agencies to explore contracting out opportunities. Eliminating the incentive, they theorize, might have the unintended effect of slowing down contracting out.

While it disturbs me to think that agencies need what some might call a payoff in order to save tax dollars, this is an issue that will receive further consideration in the subcommittee.

Mr. President, it is not the intent of this legislation to kill the A-76 program. The intention is to improve the process to ensure that expected savings become actual savings and that the quality of our Government is enhanced and not diminished.

Mr. President, I ask that the text of the bill and a section-by-section analysis of the bill be placed in the RECORD following my statement.

S. 400

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 "Commercial Activities Contracting Act of 1989".

SEC. 2. ACCOUNTING FOR SAVINGS RESULTING FROM FEDERAL GOVERNMENT CONTRACTING UNDER OMB CIRCULAR A-76.

(a) SAVINGS TO BE RETURNED TO THE TREASURY.—(1) Not more than 60 days after the beginning of each fiscal year, the head of each executive agency shall pay into the General Fund of the Treasury the amount determined under paragraph (2).

(2) At the beginning of each fiscal year, the head of each executive agency shall determine the total amount saved by that executive agency as a result of converting during the preceding fiscal year to contractor performance any commercial activity which, during the preceding fiscal year—

(A) was previously performed by civilian employees of that executive agency; or

(B) was previously performed for or on behalf of that executive agency by members of the uniformed services.

(b) CIVILIAN EMPLOYEE SAVINGS.—(1) Whenever an executive agency converts to contractor performance any commercial activity, the total number of civilian employees authorized for that executive agency in the fiscal year in which the conversion takes place shall be reduced by the number of civilian employees of that executive agency required to perform that commercial activity on a full-time basis (including the full-time equivalent of the number of civilian employees of that executive agency required to perform such activity on less than a full-time basis).

(2) The Director of the Office of Management and Budget, after consulting with the head of the executive agency concerned, shall determine the amount of any reduction in the authorized number of civilian employees of that executive agency pursuant to paragraph (1).

(c) UNIFORMED SERVICES END STRENGTHS.—(1) Whenever an executive agency converts to contractor performance any commercial activity previously performed for or on behalf of that executive agency by members of a uniformed service, the end strength authorized for that uniformed service at the end of the fiscal year in which the conversion takes place shall be reduced by the number of members of that uniformed service required to perform that commercial activity on a full-time basis (including the full-time equivalent of the number of members of that uniformed service required to perform such activity on less than a full-time basis).

(2) The Secretary concerned shall determine the amount of any reduction in the authorized end strength of a uniformed service pursuant to paragraph (1).

SEC. 3. PARTICIPATION OF FEDERAL EMPLOYEES IN DETERMINATIONS UNDER OMB A-76.

(a) IN GENERAL.—Each officer or employee of an executive agency responsible for determining under Office of Management and Budget Circular A-76 whether to convert to contractor performance any commercial activity of that executive agency—

(1) shall, at least monthly during the development and preparation of the performance work statement and the management efficiency study used in making that deter-

mination, consult with civilian employees of the executive agency who will be affected by that determination and consider the views of such employees on the development and preparation of that statement and that study; and

(2) may consult with such employees on other matters relating to that determination.

(b) CONSULTATION PROCEDURES.—(1) In the case of employees of an executive agency represented by a labor organization accorded exclusive recognition under section 7111 of title 5, United States Code, consultation with representatives of that labor organization shall satisfy the consultation requirement in subsection (a).

(2) In the case of employees of an executive agency other than employees referred to in paragraph (1), consultation with appropriate representatives of those employees shall satisfy the consultation requirement in subsection (a).

(c) REGULATIONS.—The Administrator of the Office of Federal Procurement Policy shall issue regulations to carry out this section. The regulations shall include provisions for the selection or designation of appropriate representatives of employees referred to in subsection (b)(2) for purposes of consultation required by subsection (a).

SEC. 4. DEFINITIONS.

In this Act:

(1) The term "executive agency" has the same meaning as is provided in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(2) The term "Secretary concerned" has the same meaning as is provided in section 101 of title 37, United States Code.

(3) The term "uniformed service" means any of the uniformed services named in section 101 of title 37, United States Code.

COMMERCIAL ACTIVITIES CONTRACTING ACT OF 1989 (CACAL)—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Provides that the bill shall be referred to as "Commercial Activities Contracting Act of 1989" legislation.

The acronym to identify this bill will be "CACAL."

SECTION 2. ACCOUNTING FOR SAVINGS RESULTING FROM FEDERAL GOVERNMENT CONTRACTING UNDER OMB CIRCULAR A-76

Requires that all money savings as a result of OMB A/76 actions be returned to the Treasury. Also, any manpower positions saved will result in equivalent federal civilian and uniformed employee end strength reductions.

Some executive agencies do not turn back any money or manning positions saved after an A-76 action. Over the last five years, these contracting-out savings have amounted to over $500 million. Multiplying the yearly manpower savings (since a savings in manning is also a savings in the out years) the actual projected savings would be closer to $1.5 billion. The President's budget has never identified these additional dollars available for his agencies' use. This bill, by now requiring the monies and manning positions be returned, never technically affects the President's budget. Additionally, a loophole the executive branch has been using to avoid meeting Congressionally imposed caps on manning will be eliminated.

SECTION 3. PARTICIPATION OF FEDERAL EMPLOYEES IN DETERMINATIONS UNDER OMB A-76

Employee participation in creating the government bid in any proposed contracting-out action is mandated. Employees are placed in a position to ensure the government's bid is the most cost-efficient and therefore, the most competitive that government can create.

OMB Circular A-76 allows minimal employee participation in the creation of the government's bid. However, as A-76 is currently applied, employees are realistically excluded from the process of creating the most efficient organization to compete with the contractors' bids. Government management often uses A-76 actions to fill their manning shortfalls rather than to try to create an efficient organization. They have no natural "advocacy", as industry does, to design a bid that will be the lowest and win. However, employees are "natural" advocates of a low and competitive bid. Their motivations are similar to contractors, since both are competing for their jobs. The bill, as written, includes employees in the process as far as possible without interfering with the strict rules of federal procurement.

SECTION 4. DEFINITIONS

"Executive agency", "secretary concerned" and "uniformed service" are defined in common legal terms.●

By Mr. HOLLINGS:

S. 401. A bill to exclude the Social Security trust funds from the deficit calculation and to extend the target date for Gramm-Rudman-Hollings until fiscal year 1997; to the Committees on the Budget and Governmental Affairs jointly, pursuant to the order of August 4, 1977.

SOCIAL SECURITY TRUST FUND SANCTITY ACT

● Mr. HOLLINGS. Mr. President, I rise to introduce the Social Security Preservation Act, a simple measure with an all important public purpose: To preserve the integrity of the Social Security trust fund by taking it off budget for purposes of Gramm-Rudman-Hollings deficit calculations. In other words, this bill seeks to erect a Chinese wall to separate the Social Security surpluses from the day-to-day operating budget of the U.S. Government.

Mr. President, the Congressional Budget Office recently told us that the 1990 deficit will be $146 billion. Of course, CBO knows full well that the real deficit will be closer to $300 billion. The reality is that, in keeping with the monkeyshine budget practices of recent years, we will lop off some $135 billion of that nearly $300 billion total by ransacking the various Government trust funds to meet our current operating expenses.

The plundering of the Social Security trust fund is the most egregious example of this officially sanctioned ripoff. Good Americans are under the illusion that the hefty new Social Security payroll taxes they have paid since 1984 are being safely tucked away in a sacrosanct Social Security trust fund. The idea is that today's huge surpluses are to be set aside to pay for the baby boomers' retirement in the 21st century. Well, look again. Washington's dirty little secret is that the Social Security trust fund surpluses are being siphoned off today to mask the true scale of the Federal budget deficit. This year alone we will take $68 billion from the Social Security trust fund in order to meet current operating expenses of the Government.

All that remains in the ironically named "trust funds" are bookkeeping entries saying that the Treasury owes the fund x billion dollars. The sheriff who tries to collect on those debts in the year 2025 is truly going to have his work cut out for him.

In other words, Mr. President, we take the Social Security surplus each year, spend it on the deficit, and put an IOU in the Social Security trust fund. In later years when those IOU's are needed, the Government will have a simple choice: We will have to raise taxes drastically on working Americans—who will represent a shrinking percentage of our population in the next century—in order to repay the IOU's. Or we will have to drastically slash Social Security benefits for those future recipients.

Mr. President, either way, this is a gross breach of faith with the American people. The time has come to put Social Security truly in trust and totally off budget. We must stop playing budget games with the American people.

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. 401

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

SECTION 1. This Act may be cited as the "Social Security Trust Fund Sanctity Act".

SECTION 2. EXCLUSION OF RECEIPTS AND DISBURSEMENTS OF SOCIAL SECURITY TRUST FUNDS WHEN CALCULATING MAXIMUM DEFICIT AMOUNTS.

(a) DEFINITION OF DEFICIT.—(1) The second sentence of paragraph (6) of section 3 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 622(6)) is repealed.

(2) Section 275(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking out "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

(b) SOCIAL SECURITY ACT.—Subsection (a) of section 710 of the Social Security Act is amended by striking "shall not be included in the totals of the budget" and inserting "shall not be included in the budget deficit or any other totals of the budget".

(c) EFFECTIVE DATE.—The amendments made by subsection (a) and (b) shall apply with respect to fiscal years beginning after September 30, 1989.

SECTION 3. MAXIMUM DEFICIT AMOUNT.

Section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows:

(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1985, $171,900,000,000;
"(B) with respect to the fiscal year beginning October 1, 1986, $144,000,000,000;
"(C) with respect to the fiscal year beginning October 1, 1987, $144,000,000,000;
"(D) with respect to the fiscal year beginning October 1, 1988, $136,000,000,000;
"(E) with respect to the fiscal year beginning October 1, 1989, $168,000,000,000;
"(F) with respect to the fiscal year beginning October 1, 1990, $132,000,000,000;
"(G) with respect to the fiscal year beginning October 1, 1991, $96,000,000,000;
"(H) with respect to the fiscal year beginning October 1, 1992, $60,000,000,000;
"(I) with respect to the fiscal year beginning October 1, 1993, $24,000,000,000;
"(J) with respect to the fiscal year beginning October 1, 1994, $0,000,000,000;

SEC. 4. CONFORMING CHANGES.

(a) DEFINITION OF MARGIN.—Section 257(10) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

(1) striking "fiscal year 1992" and inserting "fiscal year 1994"; and

(2) striking "fiscal year 1993" and inserting "fiscal year 1995".

(b) EFFECTIVE DATE.—Section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in paragraph (1), by striking "1993" and inserting "1995"; and

(2) in paragraph (2), by striking "and the second sentence of section 3(6) of such Act (as added by section 201(a)(1) of this joint resolution)".

By Mr. ADAMS (for himself and Mr. GORTON):

S. 402. A bill to provide for the settlement of land claims of the Puyallup Tribe of Indians in the State of Washington, and for other purposes; to the Select Committee on Indian Affairs.

PUYALLUP TRIBE OF INDIANS SETTLEMENT ACT

● Mr. ADAMS. Mr. President, I am very pleased today to introduce legislation providing for the settlement of land claims of the Puyallup Tribe of Indians in the State of Washington.

This legislation authorizes performance of the Federal role outlined in an agreement developed last summer. This agreement, between the Puyallup Tribe of Indians, local governments in Pierce County, the State of Washington, the United States of America, and certain private property owners, is designed to settle outstanding land claims by the tribe. This settlement, which amounts to approximately $161 million, has been accepted by the tribe, the local governments in Pierce County, and the private property owners. It will become effective once it has been implemented at the State and Federal level.

The Federal role in this settlement involves several functions. One major function involves taking into trust for the tribe lands acquired through this settlement agreement. Another major function involves appropriating the $77.5 million that makes up the Federal share of this settlement. Let me explain to my colleagues why Federal implementation of this agreement is so important.

This settlement resolves longstanding tribal claims over lands in and around the city of Tacoma, the Port of Tacoma, and surrounding areas in Pierce County. The current state of affairs hurts both Indians and non-Indians. The Puyallup Tribe has been deprived for many years of much of their land base, and of full exercise of their treaty fishing rights. This is a longstanding injustice that must be made right.

At the same time, uncertainty over these land claims has created hardships for non-Indians. Private landowners have had clouds placed on the titles to their land. Corporations and municipalities have been uncertain about the impact of these claims on their plans for the future, thus curtailing economic growth.

This settlement marks the birth of an opportunity for Indians and non-Indians to work together for the common good of their region. That is why implementation of this settlement is so important. Without implementation, these claims will be resolved in court. Regardless of who wins and who loses on paper in that battle, both sides will pay enormous and unrecoverable costs during that struggle.

Instead, we can contribute through implementation of the settlement to the economic growth of the entire community. Just as the current situation has hurt both Indians and non-Indians, this settlement promises economic opportunity for everyone. The Port of Tacoma will be able to continue its amazingly successful development free of concerns caused by legal claims against its property. Municipalities like the city of Tacoma can plan for the economic well-being of all citizens in an atmosphere free of legal uncertainty and animosity.

As for the Puyallup Tribe, this settlement gives the tribe resources and economic incentives to help develop a strong and viable economic base for the future. This settlement will enable the tribe to enlarge its land base by placing new lands in trust status. It will increase opportunities for employment for tribal members. It will increase the tribe's abilities to provide health and social service to its members. Furthermore, it will enhance the tribe's ability to play a vital role as a strong partner in the overall economic development of the region as a whole.

Finally, this settlement benefits the community as a whole by developing mechanisms for cooperation between the tribe and its neighbors on a government-to-government basis. As the tribe and surrounding communities grow together, cooperation will be essential on issues such as land use matters, environmental concerns, navigation conflicts, fisheries management, and flood control. Through mechanisms established by this agreement, the cooperative spirit embodied in this settlement will become an enduring legacy for the future.

I want to make it clear that this is not just a local or State matter. Under the doctrine of the trust responsibility, the U.S. Government has an obligation to assist tribes in maintaining or reclaiming lands or rights secured by treaties or other agreements with United States. The United States bears some of the burden of responsibility for the unhappy history of this issue, and the divisions that have been caused in the community. It is only proper that the United States bear some of the burden of helping to make things whole.

Finally, Mr. President, I must commend two of my colleagues for the tremendous leadership they have shown on this issue. Both Senator INOUYE, the distinguished chairman of the Senate Select Committee on Indian Affairs, and Congressman DICKS, my good friend from Washington State, have put their hearts and souls into helping this settlement become a reality. Without them, we would not be where we are today, and I thank both of them very much.

I ask unanimous consent that the bill be printed in the RECORD as if read in full.

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

S. 402

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 "Puyallup Tribe of Indians Settlement Act of 1989".

SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSE.

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

(1) It is the policy of the United States, in executing the Constitution and fulfilling its trust responsibility to Indian tribes, to promote tribal self-determination and economic self-sufficiency and to support the resolution of disputes over historical claims through settlements mutually agreed to by Indian and non-Indian parties.

(2) Disputes over certain land claims of the Puyallup Tribe and other matters, including—

(A) ownership of the Commencement Bay tidelands and areas of former Puyallup Riverbed, Treaty Reservation, or intended reservation boundaries,

(B) railroad and other rights-of-way,

(C) control of fisheries resource and habitat,

(D) jurisdiction over law enforcement, environment, navigation, and authority and control in the areas of land use,

(E) business regulation and zoning, have resulted in difficult community relations and negative economic impacts affecting both the Tribe and non-Indian parties.

(3) The United States Government through acts of omission and commission, and through inconsistent policies, contribut-

ed significantly to the historical events that have led to the disputed claims that have preceded the present settlement between the Puyallup Tribe of Indians, city of Tacoma, city of Fife, city of Puyallup, Pierce County, Port of Tacoma, State of Washington, and certain private interests and property owners.

(4) Some of the significant historical events that led to the present circumstances include—

(A) the negotiation of the Treaty of Medicine Creek in December 1854, by the Puyallup Indians and others, ceded most of their territories but reserved certain lands and rights, including fishing rights;

(B) the Executive Order of 1857 creating the Puyallup Indian Reservation;

(C) the Executive Order of 1873, clarifying and extending the Puyallup Reservation in the Washington Territory;

(D) the March 11, 1891 Report of the Puyallup Indian Commission on allotments and the 1896 report by a second Puyallup Indian Commission describing the problems with sales of allotted lands; and

(E) the 1909 District Court for Tacoma decision of United States of America against J.M. Ashton and the 1910 Supreme Court decision of United States of America against J.M. Ashton.

(5) In the recent history of these affairs, certain events have occurred of significance preceding the finalization of the present agreement, including—

(A) a July 1981 United States district court ruling, Puyallup Tribe against Port of Tacoma, affecting the former riverbed;

(B) an August 1983 decision by the Ninth United States Circuit Court of Appeals upholding the 1981 United States district ruling;

(C) the beginning of negotiations in August 1984 between the Puyallup Tribe and a newly formed non-Indian negotiating team, leading to a first settlement offer to the Tribe on March 1, 1985, and rejected by the Tribal Council;

(D) a new settlement offer reached in principle by all parties was defeated in a vote by the Tribal membership on February 8, 1986; and

(E) new negotiations began leading to the successful development of a settlement agreement, approved by the Puyallup Tribal membership on August 27, 1988.

(6) It is recognized that both Indian and non-Indian parties enter into this settlement to resolve certain problems and claims and to derive certain benefits:

(A) It is the view of the Puyallup Tribe that historical injustices have been imposed upon its members through actions by Federal, State, local, and private entities. The Tribe enters into the settlement not as a means to completely redress past injustices, but as a responsible action to ensure a positive future for its members. The Tribe further recognizes that the economic benefits that are provided in the settlement, including payments to its members, funds to address Tribal human needs, funds to start business enterprises and job assistance, and land conveyances will enhance the prospects of Tribal economic stability and self-sufficiency. It is further recognized by the Tribe that jurisdiction over existing and future trust lands, the ability to place additional lands into trust, and the retention of existing treaty rights will have positive impacts upon the future of its members.

(B) It is the view of the non-Indian parties that historical land claims and disputes carried to the present day have been injurious to the development and growth of the affected communities and has inhibited business interests and the creation of jobs in the area. The non-Indian parties further assert that land and jurisdictional disputes that are subject to lengthy litigation cannot serve the interests of the public or the future of the community and believe that it is best for all parties affected to take actions to remove such disputes as an impediment to future success. The non-Indian community believes that the provisions of the settlement, through agreement, cooperation, and clarification of issues, serve to enhance property values, stimulate economic investment, promote port development, permit local governments to engage in long-term community planning, and provide a pragmatic framework for the positive resolution of future conflicts.

(7) There is a recognition that any final resolution of pending disputes through a process of litigation would take many years and entail great expense to all parties; continue economically and socially damaging controversies; prolong uncertainty as to the access, ownership, and jurisdictional status of issues in question; and seriously impair long-term economic planning and development for all parties.

(8) To advance the goals of Federal Indian policy and to fulfill the trust responsibility of the United States to the community, and to advance the Federal policy of international trade and economic development, and in recognition of the Federal policy of settling these conflicts through comprehensive settlement agreements, it is appropriate that the United States participate in the implementation of the agreement and contribute funds for such purpose.

(b) PURPOSE.—Therefore, it is the purpose of this Act—

(1) to approve, ratify, and confirm the agreement entered into by the non-Indian settlement parties and the Puyallup Tribe of Indians,

(2) to authorize and direct the Secretary to execute and perform such agreement, and

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the community as provided in the settlement agreement and this Act.

SEC. 3. RESOLUTION OF PUYALLUP TRIBAL LAND CLAIMS.

(a) RELINQUISHMENT.—In accordance with the Settlement Agreement and in return for the land and other benefits derived from the Settlement Agreement and this Act, the Tribe, and the United States as trustee for the Tribe and its members, relinquish all claims to any land, present or former tidelands, submerged lands, mineral claims, and nonfisheries water rights connected with such relinquished land, known or unknown, within the State of Washington, subject to the exceptions referred to in subsection (b)

(b) EXCEPTION FOR CERTAIN LANDS.—Subsection (a) shall not apply to the following:

(1) 12.5 acres of former riverbed land confirmed to the Tribe in Puyallup Tribes of Indians against Port of Tacoma (Western District of the United States District Court for the State of Washington, Cause No. C80-164T), which land shall be subject to the terms and conditions described in the Settlement Agreement and document 6 of the Technical Documents.

(2) All land to which record title in the Tribe or the United States in trust for the Tribe or its members derives from a patent issued by the United States or from a conveyance of tideland by the State of Washington. For the purposes of this paragraph, the term "record title" means title documented by identifiable conveyances reflected in those records imparting constructive notice of conveyances according to the laws of the State (RCW chapters 65.04 and 65.08) and the final judgments of State or Federal courts.

(3) Certain land recognized to be owned on August 27, 1988, by the Tribe or the United States in trust for the Tribe within the Indian Addition to the city of Tacoma, Washington, as recorded in book 7 of plats at pages 30 and 31, records of Pierce County, Wasnington, as follows:

(A) Land owned on August 7, 1988:

(i) Portions of tracts, 2, 5, 6, 10, and 11.

(ii) Tract 7 (school site).

(iii) Tract 8 (church site).

(iv) Tract 9 (cemetery site).

(v) Approximately 38 lots in blocks 8150, 8249, 8350, and 8442, inclusive.

(B) Land, wherever located, added to the above list of parcels on or before December 1, 1988, in accordance with paragraph A.3. of section IX of the Settlement Agreement.

(4) The lands transferred to the Tribe pursuant to the Settlement Agreement.

(5) The rights to underlying lands or the reversionary interest of the Tribe, if any, in the Union Pacific or Burlington Northern rights-of-way across the 1873 Survery Area, where the property over which they were granted belonged, at the time of the grant, to the United States in trust for the Tribe or to the Tribe.

(6) The submerged lands as of August 27, 1988, in the Puyallup River within the 1873 Survey Area below the mean high water line.

(c) PERSONAL CLAIMS—Nothing in this section or in the Settlement Agreement shall be construed to impair, eliminate, or in any way affect the title of any individual Indian to land held by such individual in fee or in trust, nor shall it affect the personal claim of any individual Indian as to claims regarding past sales of allotted lands or any claim which is pursued under any law of general applicability that protects non-Indians as well as Indians.

SEC. 4. SETTLEMENT LANDS.

(a) ACCEPTANCE BY SECRETARY.—The Secretary shall accept the conveyance of the lands described in subsection (c), and the Outer Hylebos tidelands property referred to in section VIII, A,1,c of the Settlement Agreement, subject to the terms and conditions of the Settlement Agreement and shall hold such lands in trust for the benefit of the Tribe.

(b) CONTAMINATION.—(1) Contamination audits and cleanup of settlement lands shall be carried out in accordance with the Settlement Agreement and document 1 of the Technical Documents.

(2) The Tribe shall not be liable for the cleanup costs or in any other manner for contamination on properties described in subsection (c) except any contamination caused by the Tribe's activities after conveyance of these properties to the Tribe under the terms of the Settlement Agreement and document 1 of the Technical Documents.

(c) LANDS DESCRIBED.—The lands referred to in subsection (a), and more particularly described in the Settlement Agreement, are as follows:

(1) The Blair Waterway property, comprised of approximately 43.4 acres.

(2) The Blair Backup property, comprised of approximately 85.2 acres.

(3) The Inner Hylebos property, comprised of approximately 72.9 acres.

(4) The Upper Hylebos property, comprised of approximately 5.9 acres.

(5) The Union Pacific property (Fife), comprised of a parcel of approximately 57 acres, and an adjoining 22-acre parcel if the option relating to the Union Pacific property (Fife) (as described in document 1 of the Technical Documents) is exercised.

(6) The Torre property (Fife), comprised of approximately 27.4 acres, unless the Port elects to provide the cash value of such property.

(7) The Taylor Way and East-West Road properties, two properties totaling approximately 7.4 acres.

(8) The submerged lands in the Puyallup River within the 1873 Survey Area below the mean high water line, as provided in section I. B. of the Settlement Agreement. To the extent that the United States has title to any of the lands described in this subpart, then such lands shall be held by the United States in trust for the use and benefit of the Puyallup Tribe.

(9) The approximately 600 acres of open space, forest, and cultural lands acquired by the Tribe with cash received pursuant to section I of the Settlement Agreement or other tribal funds.

(d) RESERVATION STATUS.—Nothing in this Act is intended to affect the boundaries of the Puyallup Reservation, except that the lands described in subsection (c) above in paragraphs (1) through (8), and the Outer Hylebos tidelands property referred to in a section VIII of the Settlement Agreement, shall have on-reservation status.

SEC. 5. FUTURE TRUST LANDS.

In accepting lands in trust (other than those described in section 4) for the Puyallup Tribe or its members, the Secretary shall exercise the authority provided him in section 5 of the Act of June 18, 1934 (25 U.S.C. 465), and shall apply the standards set forth in part 151 of title 25, Code of Federal Regulations, as those standards now exist or as they may be amended in the future.

SEC. 6. FUNDS TO MEMBERS OF PUYALLUP TRIBE.

(a) PAYMENT TO INDIVIDUAL MEMBERS.—(1) To the extent provided in advance in appropriation Acts or to the extent funds are provided by other parties to the Settlement Agreement, the Secretary shall place with a financial institution the amount of $24,000,000 in an annuity fund or other investment program (hereafter in this subsection referred to as the "fund"). The selection of the institution or institutions where the funds will be held and the administration of the funds shall be in accordance with section II of the Settlement Agreement and documents 2 and 3 of the Technical Documents. Amounts earned pursuant to any investment of the fund shall be added to, and become part of, the fund.

(2) Upon attaining the age of 21 years, each enrolled member of the Tribe (determined by the Tribe pursuant to its constitution to have been a member as of the date of ratification of the Settlement Agreement by the Tribe) shall receive a one-time payment from the fund. The amount of such payment shall be determined in accordance with section II of the Settlement Agreement and document 2 of the Technical Documents.

(3) A reasonable and customary fee for the administration of the fund may be paid out of the income earned by the fund to the financial institution with which the fund is established.

(4) Upon payment to all eligible members of the Tribe pursuant to paragraph (1), any amount remaining in the fund shall be utilized in the manner determined by a vote of the members of the Tribe.

(b) PERMANENT TRUST FUND FOR TRIBAL MEMBERS.—(1) In order to provide a permanent resource to enhance the ability of the Tribe to provide services to its members, there is established the Puyallup Tribe of Indians Settlement Trust Fund (hereafter in this subsection referred to as the "trust fund").

(2) Upon appropriation by Congress or to the extend funds are provided by other parties to the Settlement Agreement, the Secretary shall deposit $22,000,000 into the trust fund. The trust fund shall be invested in accordance with the Act of June 24, 1938 (25 U.S.C. 162a), so as to earn the maximum interest on principal and interest available under that Act. No part of the $22,000,000 principal may be expended for any purpose. Income earned on the principal or interest of the trust fund shall be available for expenditure as provided in paragraph (3).

(3)(A) The trust fund shall be administered and the funds shall be expended in accordance with section III of the Settlement Agreement and document 3 of the Technical Documents. Income from the trust fund may be used only for the following purposes unless modified in accordance with subparagraph (B):

(i) Housing.

(ii) Elderly needs.

(iii) Burial and cemetery maintenance.

(iv) Education and cultural preservation.

(v) Supplemental health care.

(vi) Day care.

(vii) Other social services.

(B) The purposes of the trust fund may be modified only as provided in document 3 of the Technical Documents.

(4) The fund established under this subsection shall be in perpetuity and inviolate.

SEC. 7. FISHERIES.

In order to carry out the Federal part of the fisheries aspect of the Settlement Agreement, there is authorized to be appropriated $100,000 for navigation equipment at Commencement Bay to be used in accordance with section A of document 4 of the Technical Documents.

SEC. 8. ECONOMIC DEVELOPMENT AND LAND ACQUISITION.

(a) ECONOMIC DEVELOPMENT AND LAND ACQUISITION FUND.—To the extent provided in advance in appropriation Acts, the Secretary shall disburse $10,000,000 to the Tribe of which—

(1) $9,500,000 shall be available for the Tribe to carry out economic development consistent with section VI of the Settlement Agreement or to acquire lands; and

(2) $500,000 shall be available only to support and assist the development of business enterprises by members of the Tribe in a manner consistent with the Settlement Agreement.

(b) FOREIGN TRADE.—The Congress recognizes the right of the Tribe to engage in foreign trade consistent with Federal law and notwithstanding Article XII of the treaty with the Nisqually and other bands of Indians entered into on December 26, 1854, and accepted, ratified, and confirmed on March 3, 1855 (11 Stat. 1132).

(c) BLAIR PROJECT.—There is authorized to be appropriated $25,500,000 for the Federal share of the costs associated with the Blair project, which shall be carried out in accordance with document 6 of the Technical Documents.

SEC. 9. JURISDICTION.

The Tribe shall retain and exercise jurisdiction, and the United States and the State and political subdivisions thereof shall retain and exercise jurisdiction, as provided in the Settlement Agreement and Technical Documents and, where not provided therein, as otherwise provided by Federal law.

SEC. 10. MISCELLANEOUS PROVISIONS.

(a) LIENS AND FORFEITURES, ETC.—None of the funds, assets, or income—

(1) from the trust fund established in section 6(b) which are received by the Tribe under the Settlement Agreement, or

(2) which are held under section 6(a) for payment to members of the Tribe under the Settlement Agreement, shall be subject to levy, execution, forfeiture, garnishment, lien, encumbrance, or seizure.

(b) ELIGIBILITY FOR FEDERAL PROGRAMS; TRUST RESPONSIBILITY.—Nothing in this Act or the Settlement Agreement shall affect the eligibility of the Tribe or any of its members for any Federal program or the trust responsibility of the United States and its agencies to the Tribe and members of the Tribe.

(c) PERMANENT TRUST FUND NOT COUNTED FOR CERTAIN PURPOSES.—None of the funds, assets, or income from the trust fund established in section 6(b) shall at any time be used as a basis for denying or reducing funds to the Tribe or its members under any Federal, State, or local program.

(d) TAX TREATMENT OF FUNDS AND ASSETS.—None of the funds or assets transferred to the Tribe or its members by the Settlement Agreement, and none of the interest earned or income received on amounts in the funds established under section 6(a) and (b), shall be deemed to be taxable, nor shall such transfers be taxable events.

SEC. 11. ACTIONS BY THE SECRETARY.

The Secretary in administering this Act shall be aware of the trust responsibility of the United States for the Tribe and shall take such actions as may be necessary or appropriate to carry out this Act and the Settlement Agreement.

SEC. 12. DEFINITIONS.

For the purposes of this Act—

(1) the term "1873 Survey Area" means the area which is within the area demarked by the high water line as meandered and the upland boundaries, as shown on the plat map of the 1873 Survey of the Puyallup Indian Reservation, conducted by the United States General Land Office, and filed in 1874;

(2) the term "Secretary" means the Secretary of the Interior;

(3) the term "Settlement Agreement" means the document entitled "Agreement between the Puyallup Tribe of Indians, local Governments in Pierce County, the State of Washington, the United States of America, and certain private property owners", dated August 27, 1988;

(4) the term "State" means the State of Washington;

(5) the term "Technical Documents" means the 7 documents which comprise the technical appendix to the Settlement Agreement and are dated August 27, 1988;

(6) the term "Tribe" means the Puyallup Tribe of Indians, a tribe of Indians recognized by the United States; and

(7) the term "below the mean high water line" in reference to the submerged lands of the Puyallup Riverbed means "below the ordinary high water mark" in that portion of the river not subject to tidal influence and

"below the mean high water line" in that portion of the river which is subject to tidal influence.

SEC. 13. EFFECTIVE DATE.

Sections 3 and 9 shall take effect on the effective date of the Settlement Agreement and when all terms are met as stated under section X of the Settlement Agreement.●

● Mr. GORTON. Mr. President, I am very pleased to have the opportunity to introduce, along with my colleague from Washington State, Senator BROCK ADAMS, the Puyallup Tribe of Indians Settlement Act of 1989.

The legislation which we have introduced today is a result of several years of negotiations between the Puyallup Indians in Washington State and representatives from the State, local, and Federal Governments. It will implement an agreement approved by the Puyallup Indian Nation on August 27, 1988. The agreement resolves longstanding disputes of tribal claims involving properties in and around Tacoma, the Port of Tacoma, and surrounding localities in Pierce County in Washington State.

Preceding this settlement, the Puyallup Tribe's relationship with the local community was largely determined by a series of court actions. While some issues, chiefly involving fishing rights, were settled by litigation, the potential for further claims and litigation remained. These claims, involving prime, downtown land within the heart of the city and port will be resolved by this settlement. Additional claims, against private property owners, will also be resolved.

The legislation which we are introducing today is the Federal component of the overall settlement agreement. It provides $77.5 million, less than half of the overall settlement amount. The funds will support various economic development initiatives, infrastructure improvements, employment opportunities, and social service programs for the Puyallup Tribe. It will also provide a trust fund that will be divided among the individual members of the tribe.

In light of the Federal Government's trust fund responsibility to the tribe and because of past Federal actions that unduly deprived the tribe of much of their land base, I ask from my colleagues support for this legislation. It is a carefully crafted, fair agreement that resulted from the hard work and literally years of perseverance of the affected parties. The task of resolving historical claims was an immense one. But what has emerged is not only a fine settlement package, but perhaps even more importantly, is the basis for a new partnership for the future among all members of our community. We will no longer stand divided, we are neighbors working together for the common good. I am proud to introduce this legislation, and I commend all of the parties for their outstanding work on the settlement.●

By Mr. GARN (for himself and Mr. HATCH):

S. 403. A bill to authorize an amendment to a certain repayment contract for the Jensen Unit, Central Utah Project, with the Uintah Water Conservancy District, Utah, and for other purposes; to the Committee on Energy and Natural Resources.

REPAYMENT CONTRACT FOR THE JENSEN UNIT, UTAH

● Mr. GARN. Mr. President, I rise with my colleague from Utah, Senator HATCH, to introduce legislation which will resolve an existing problem associated with the Jensen Unit of the Central Utah Project.

As every member of this body will recall, the atmosphere of the 1970's and early 1980's was one of near hysteria as the OPEC oil cartel used its clout to push oil prices up to levels never before achieved in history. A cost of $35 per barrel of oil was the rule of the day. It was in this environment that the Federal Government established Project Independence and through the Bureau of Reclamation, pushed local officials in the Uintah Basin in Utah to build a large capacity water project in order to accommodate energy development.

As you know, Mr. President, the States of Utah and Colorado contain oil shale deposits which, when converted to oil, exceed the known reserves in Saudi Arabia. Utah alone contains over 90 percent of the Nation's known reserves of tar sands. So, the water storage and delivery systems of the Jensen Unit of the Uintah Basin were constructed in response to Project Independence and the congressional enactment of the Energy Security Act of 1980 in anticipation of a synthetic fuels production boom.

After the facilities were constructed, the boom became a bust. Local residents left the area in droves. It became impossible for the local Uintah Water Conservancy District to repay the Federal Government for the full cost of municipal and industrial [M&I] water supply.

On September 19, 1988, the Uintah Water Conservancy District completed negotiations with the United States Bureau of Reclamation on an amendatory contract which recognizes reality and allows the district to contract for the water it can afford while reserving the remaining M&I water to the United States.

In the event the price of oil returns to its previous high levels and synthetic fuel development becomes viable, the Government can then easily utilize the provisions of the amendatory contract and the local water entity will likely be able to purchase the available unmarketed water.

I am aware of legislation which passed the 100th Congress on behalf of the town of Minot, ND, which resolved a similar problem and inequity force upon the town because of actions taken by the Federal Government.

I would hope the Congress will act quickly to approve this legislation recognizing that without it, the Federal Government will receive no return on its investment and the taxpayers would lose their investment as well.

I am including an explanation of the provisions of the amendatory contract in the RECORD as part of my statement, and I ask unanimous consent that it be printed in the RECORD.

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

S. 403

Be in enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to enter into Amendatory Contract No. 6-05-01-00143, as last revised on September 19, 1988, between the United States and the Uintah Water Conservancy District, which provides, among other things, for part of the municipal and industrial water obligation now the responsibility of the Uintah Water Conservancy District to be retained by the United States with a corresponding part of the water supply to be controlled and marketed by the United States. Such waters shall not be marketed outside the boundaries of the State of Utah and shall be used in conformance with Utah State law.

EXPLANATION OF PROVISIONS OF AMENDATORY CONTRACT NO. 6-05-01-00143, AS LAST REVISED ON SEPTEMBER 19, 1988

The primary terms and conditions set forth in the proposed amendatory contract are outlined below.

Article 2 describes the "Purposes and Objectives" of the amendatory contract. The Uintah Water Conservancy District (the District) contracted for 2,000 acre-feet of municipal and industrial water. The remaining 4,000 acre-feet of project water presently developed by constructed project facilities is reserved for marketing by the United States, but may be acquired by the District or sold by the United States to third parties outside the District's marketing area with the District having the right of first refusal.

Article 4 amends the "Terms of Repayment" article of the original repayment contract. Subarticle (c) defines the repayment amount for the first 2,000 acre-feet of municipal and industrial water. It is based on the per acre-foot cost allocated to municipal and industrial water (18,000 acre-feet) for all project costs expended through December 31, 1987, plus the estimated cost of Burns Pumping Plant indexed to January 1, 1988. The proportionate cost for 2,000 acre-feet was amortized over 49 years. The anticipated cost of Burns Pumping Plant was included in the pricing mechanism to establish a consistent price for present water repayment arrangements and future repayment amounts.

The price for any of the additional 4,000 acre-feet of water presently developed will be based on the same per acre-foot cost as the initial 2,000 acre-foot block, plus the per

acre-foot cost allocated to municipal and industrial water expended on the project after December 31, 1987. The District will be allowed to acquire any portion of the remaining water or granted the right of first refusal on any bona fide offer acceptable to the United States made by a third party.

The annual payments for the project water taken from the United States portion of the 4,000 acre-feet will include the per acre-foot amount of the original 2,000 acre-feet, times the 49 years in the payout period, divided by the number of years remaining between the year of acquisition and 2037. This will recover the principal and interest as if the water were all acquired today. In addition, the costs expended after December 31, 1987, will be added to the per acre-foot value determined above.

In the event Burns Pumping Plant is constructed to develop the additional municipal and industrial water, the District may acquire portions of said water based on the annual per acre-foot cost to develop the water to be sold under the terms based on Reclamation law existing at the time of acquisition. If the United States has an opportunity to sell any of the 12,000 acre-feet of municipal and industrial water to third parties outside the District's marketing area, the district will be allowed the right of first refusal of any bona fide offer.

Article 6 changes the terms for disposal of project water by the United States to give flexibility to establish the price on a case-by-case determination and to allow use of water on a temporary basis for municipal and industrial use or irrigation at the discretion of the United States.

Article 7 specifies the adjusted amounts of irrigation and municipal and industrial water the District is required to deliver to their petitioners. The quantity of municipal and industrial water and potential increases as the demand develops in the District's marketing area or as sales are made to third parties is consistent with the repayment agreements.

Article 8 which deals with operations and maintenance of project works, utilizes language from our standard article with the exception of subarticle (a), which excludes the transfer of recreation and specific fish and wildlife facilities which will be transferred to State of Utah Agencies rather than the Contractor; and subarticle (e), which deletes the last portion of the paragraph stating "or the United States required under this contract regardless of who performs those duties. The article also includes subarticle (i), which was also in the original contract. It also adds subarticle (j), which addresses the payment of operation and maintenance expenses incurred by third party purchases; and subarticle (k), which covers a portion of expense that could be incurred with extraordinary operation and maintenance that results in a significant failure of major project works under periods of special stress. The United States will be responsible for two-thirds of the expense initially. The expense will be reduced proportionately as more project water is obtained by the District or third parties.

Article 9 addresses the emergency reserve fund. Subparagraph (b) was modified to remove the inclusion of interest as part of the build-up or the continue to be retained to increase the reserve fund after the basic amount is accumulated. Subarticle (f) was also modified to exclude the reference to accumulated interest as a component of the emergency reserve fund.●

By Mr. CRANSTON (for himself and Mr. MURKOWSKI):

S. 404. A bill to amend title 38, United States Code, to extend certain Department of Veterans' Affairs home loan guaranty program provisions; to the Committee on Veterans' Affairs.

DEPARTMENT OF VETERANS' AFFAIRS HOME LOAN GUARANTY PROGRAM PROVISIONS

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am pleased to introduce today with my good friend from Alaska, the ranking minority member of the committee, Senator MURKOWSKI, S. 404, which would provide 2-year extensions of two statutory provisions—the 1-percent fee on Veterans' Administration-guaranteed home loans and of the statutory formula—known as the no-bid formula—governing whether the VA acquires properties at liquidation sales. Both of these provisions have sunset dates of September 30, 1989.

Mr. President, section 1829 of title 38, United States Code, provides for the collection of a 1-percent fee on those receiving a housing loan guaranteed, insured, or made by the VA. The fee, previously one-half of 1 percent was increased to 1 percent by section 2512(a) of the Deficit Reduction Act of 1984 [DEFRA] (Public Law 98-369).

The administration strongly supports extending—and indeed increasing the amount to 3.8 percent—the VA loan fee.

Although I have reservations regarding the imposition of a fee on what I am committed to preserving as a benefit program, unfortunately, the significant financial problems now facing the VA home loan program, in combination with the towering Federal deficits which are a burden on all taxpayers and all Government programs, require that we continue at least for the next 2 years the 1-percent fee on VA-guaranteed loans. The fee generates approximately $1 million per day in revenues to the Loan Guaranty Revolving Fund.

Section 1816(c) of title 38, also enacted in the DEFRA, establishes the "no-bid formula" for determining whether the VA acquires, or does not acquire, at a liquidation sale the property securing a VA-guaranteed loan that is in default.

Mr. President, the formula governing VA acquisition of properties securing loans being foreclosed has been in effect for over 4 years and provides principles, generally well-known throughout the housing and banking industries, by which the VA must abide. I believe that these provisions—with revisions which were enacted on December 21, 1987, in Public Law 100-198, based on legislation which Senator MURKOWSKI and I authored, but which, unfortunately, have not yet been implemented by the VA—establish fair and cost-effective guidelines governing the VA's acquisition of foreclosed properties and should be extended.

For further background on these provisions, I refer my colleagues to our committee's report on S. 1801 (S. Rept. 100-204).

Mr. President, I ask unanimous consent that the text of the bill we are introducing be printed in the RECORD at this point.

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

S. 404

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

SECTION 1. EXTENSION OF HOME LOAN GUARANTY FEE.

Section 1829(c) of title 38, United States Code, is amended by striking out "1989" and inserting in lieu thereof "1991".

SEC. 2. EXTENSION OF "NO-BID" FORMULA FOR DEFAULT PROCEDURES.

Section 1816(c)(11) of title 38, United States Code, is amended by striking out "1989" and inserting in lieu thereof "1991".

By Mr. CRANSTON (for himself, Mr. DECONCINI, and Mr. MATSUNAGA):

S. 405. A bill to amend title 38, United States Code, to require the Department of Veterans' Affairs to conduct a program providing community-based residential treatment for homeless chronically mentally ill veterans and to authorize the inclusion of certain other chronically mentally ill veterans in such program, and for other purposes; to the Committee on Veterans' Affairs.

HOMELESS AND OTHER CHRONICALLY MENTALLY ILL VETERANS

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am introducing today, along with Senators DECONCINI and MATSUNAGA, a bill to require, during fiscal years 1990 through 1992, the Department of Veterans' Affairs [VA] to conduct a program furnishing, in VA or contract facilities, residential community-based care to homeless chronically mentally ill veterans, and authorize the VA to include in the program the furnishing of such care to certain other chronically mentally ill veterans. This bill would, in effect, provide for a 3-year extension of the VA's highly successful Homeless Chronically Mentally Ill [HCMI] Program, codify the program in title 38 of the United States Code, and remove its designation as a pilot program. Our bill would likewise extend for 3 years the authority to include in the program veterans who have service-connected chronic mental illness disabilities and chronically mentally ill veterans who are receiving VA hospital or nursing home care. It would also expand this discretionary authority to include chronically mentally ill veterans with service-connected disabilities

rated at 50 percent or more; who were included in the original program enacted in 1987.

The HCMI Program was first authorized in 1987 under section 2 of Public Law 100-6 as a contract authority. In 1988, under section 115 of Public Law 100-322, the Veterans' Benefits and Services Act of 1988, the contract authority was replaced by a requirement for the VA to conduct in fiscal years 1988 and 1989 a pilot program for homeless chronically mentally ill veterans and an authority for the agency to include in the program veterans with service-connected chronic mental illness disabilities and chronically mentally ill VA hospital and nursing home patients. Through the HCMI Program, in combination with the special homeless veteran domiciliary-bed program, which was fully authorized in Public Law 100-322, the VA has provided shelter and medical and psychiatric treatment for over 11,000 homeless veterans who are in desperate need of such help.

In section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, $15 million was authorized to be appropriated (in addition to any funds appropriated pursuant to any other authorization) for each of fiscal years 1989 and 1990 for the furnishing of care and services to homeless veterans under the current program authority in section 115 of Public Law 100-322. Our bill would replace the reference in section 801 of the 1988 McKinney law with a reference to the proposed new section 620C of title 38. It is our expectation that any future extension of the McKinney authorities would include appropriate authorizations of appropriations for the furnishing of services to homeless veterans under this new section.

Finally, Mr. President, our bill would require the Secretary of Veterans' Affairs to submit, not later than February 1, 1992, to the Committees on Veterans' Affairs' of the Senate and House of Representatives a report on the experience of the Department under this bill and the recommendation of the Secretary—together with the reasons for such recommendation—as to whether the program should be continued.

The Need: The plight of homeless persons is a national disgrace that has increasingly become a focus of attention. Recent estimates suggest that each night approximately 750,000 individuals are homeless, and that in the course of a year, between 1.3 and 2 million people will find themselves out on the street, without a home. The U.S. Conference of Mayors reported in 1987 that most cities estimate increases in the number of homeless persons of 15 to 50 percent each year. These numbers reflect a most urgent problem.

Of those who are homeless, approximately 33 percent have been described as being chronically mentally ill. The reasons for this high representation of mentally ill individuals among the homeless are generally perceived to be the failure of the public mental health and social welfare systems to provide care and support for these vulnerable people combined with the decline over the last 15 years in availability of low-cost housing and the concurrent decline in the availability of public support payments.

Veterans make up approximately 29 percent of the adult male population of the United States and it seems clear that no less a percentage of veterans exist in the homeless population. Various surveys put the percentage of veterans in the homeless population between 18 and 51 percent. Using these estimates, between 135,500 and 382,000 veterans, many of whom are chronically mentally ill, are currently homeless.

The HCMI Program: The community-based program for homeless chronically mentally ill veterans combines aggressive outreach with health services, intensive case management and time-limited care in non-VA residential treatment centers. The results from the program have been very encouraging. The second annual report detailing the progress of the HCMI Program was submitted to the Committee on Veterans' Affairs on January 17, 1989. It reveals that, in the first 11 months of the program, operations in 43 VA Medical Centers in 26 States—including 5 sites in California—and the District of Columbia were able to assess 10,524 veterans and place 2,125 of them in residential treatment facilities. Given the difficult nature of contacting these veterans—in soup kitchens and shelters, on the streets, and under bridges—and of building trust between the veteran and the outreach worker, which is so very necessary to make an assessment and provide for physical and mental examinations, the numbers involved demonstrate a tremendous success on the part of the outreach workers, and consequently on the part of the program itself.

Mr. President, I'd like to take a moment to thank all of those individuals who have been so very deeply involved in this program and who have given their all to it—especially those tireless, dedicated outreach workers, some of them former homeless veterans themselves, without whom this program could not have worked—for all of the sweat, tears, and heart they have put into this program. I know I speak for every American who is concerned about and saddened by the plight of homeless people when I say thank you to all of these enormously dedicated, compassionate individuals for caring.

Mr. President, to further honor these and the other individuals who are thanked in the acknowledgment contained in the HCMI report for their efforts, I ask unanimous consent that that acknowledgment be printed in the RECORD at the conclusion of my remarks.

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

Mr. CRANSTON. Mr. President, I also wish to congratulate and thank the Director of the VA's Mental Health and Behavioral Sciences Service, Dr. Paul Errera, whose vision, inspirational leadership, and dedication have been crucial to the program.

Mr. President, the assessments given veterans under this program clearly show that the program is reaching those it was intended to reach—long-term homeless, extremely poor, chronically mentally ill veterans. Here are the figures from the VA's January 1989 report: Over 30 percent of those assessed had been homeless for 1 or more years; average total income for the 30 days prior to assessment was $228; and 38.1 percent reported having been hospitalized in the past for a general psychiatric problem, 51.6 percent manifested one or more severe psychiatric symptoms, and 97.3 percent of the 47 percent who were given psychiatric examinations from the HCMI program received at least one psychiatric or substance abuse diagnosis.

Preliminary data about the outcome of treatment in community-based residential treatment is available for 1,356 episodes of treatment and for 638 veterans involved in the follow-up evaluation. Of those discharged from residential treatment programs, 25.6 percent were judged to have successfully completed the program, 32.7 percent left against medical advice, and 20.5 percent were discharged for violation of program regulations—often for using drugs or drinking. In 10.6 percent of the cases, the veterans left to obtain more intensive medical or psychiatric treatment elsewhere.

Not surprisingly, given that the need for ongoing care is the rule rather than the exception in the care of chronically mentally ill persons, the clinicians determined that, at the time of discharge, about half of the veterans had shown improvement but were in need of additional treatment, while only 1 to 8 percent had improved to the point of needing no further treatment.

Mr. President, I ask unanimous consent that the executive summary of "Reaching Out: The Second Progress Report on the VA HCMI Veterans Program" be inserted in the RECORD at the conclusion of my remarks prior to the Acknowlegment.

The PRESIDING OFFICER. Without objection, it is ordered.

CONCLUSION

Mr. CRANSTON. Mr. President, this bill would accomplish several impor-

tant objectives. By removing the pilot program designation, we would be recognizing the success of the program and the ongoing need of these veterans. Additionally, in practical terms, it would allow the VA to offer term or career positions, complete with employee fringe benefits, to those individuals working in the program. I understand that there is a high burnout rate of outreach workers and others working with homeless veterans and that it is difficult to find replacements, due in part to the lack of job security and lack of benefits. I believe that the combination of the recognition of a job well-done and the opportunity for employment with health-insurance and other benefits will have a very positive effect on the recruitment and retention of the professionals and other personnel involved in this program.

Mr. President, I urge all of my colleagues to give their support to this measure, which will be of such great benefit to veterans who answered our Nation's call in its hour of need and who now find themselves in such great need of this assistance.

Mr. President, I ask unanimous consent that the text of the bill be inserted in the RECORD at this point, before the other documents which I have asked to be inserted.

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

S. 405

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

SECTION 1. COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS AND CERTAIN OTHER CHRONICALLY MENTALLY ILL VETERANS.

(a) IN GENERAL.—Chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 620C. Community-based residential care for homeless and other chronically mentally ill veterans.

"(a)(1) The Secretary shall conduct a program to furnish care and treatment and rehabilitative services (directly or by contract) in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities to homeless veterans suffering from chronic mental illness disabilities who are eligible for care under section 610(a)(1) of this title.

"(2) As part of the program, the Secretary may also provide such care and treatment and rehabilitative services—

"(A) to veterans with service-connected chronic mental illness disabilities;

"(B) veterans described in section 612(a)(1)(B) of this title who have chronic mental illness disabilities; and

"(C) veterans being furnished hospital or nursing home care by the Secretary for chronic mental illness disabilities.

"(b) Before furnishing care and treatment and rehabilitative services by contract under subsection (a)(1) of this section to a veteran through a facility described in such subsection, the Secretary shall approve (in accordance with criteria which the Secretary shall prescribe the quality and effectiveness of the program operated by such facility for the purpose for which the veteran is to be furnished such care and services.

"(c) The Secretary may provide in-kind assistance (through the services of Department of Veterans Affairs employees and the sharing of other Department resources) to a non-Department facility described in subsection (a)(1) of this section which is furnishing care and services to veterans under this section. Any such in-kind assistance shall be provided under a contract between the Department and such facility. The Secretary may provide such assistance only for use solely in the furnishing of appropriate care and services under this subsection and only if, under such contract, the Department receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Department facility that provided the assistance.

"(d) The Secretary may not furnish care and treatment and rehabilitative services under subsection (a) of this section after September 30, 1992.

"(e) Not later than February 1, 1992, the Secretary shall submit to the Committees on Veterans Affairs' of the Senate and House of Representatives a report on the experience of the Department under this section and the recommendation of the Secretary (together with the reasons for such recommendation) as to whether the program should be continued.

"(f) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 620B the following new item:

"620C. Community-based residential care for homeless and other chronically mentally ill veterans."

SEC. 2. CONFORMING AMENDMENT.

Section 801(c) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628; 102 Stat. 3257) is amended by striking out "section 115 of the Veterans Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 501)" and inserting in lieu thereof "section 620C of title 38, United States Code,".

ACKNOWLEDGMENTS

At the time when the Homeless Chronically Mentally Ill Veterans Program began, in May of 1987, its prospects for the future were slim indeed. It had only a few months of funding ahead of it and virtually no prospect of funding for the future. Undaunted by these odds, VA professionals across the country rolled up their sleeves and began to create this program, believing that if they could bring a national program for homeless veterans to life, the importance of the work they had undertaken would be recognized. So far, they appear to have been correct in both their personal conviction and in their prognostication. It has been an honor to work with so many committed people from so many different parts of the country on this project.

We would like to thank Laurent Lehmann MD, Gay Koerber MA and Robert Murphy of the Mental Health and Behavioral Sciences Services, VACO for their tireless work on behalf of the both the HCMI Program and its evaluation; and Virginia Emond, Lemuel Retamar, Lynn Gorchav, Sharon Medak, Linda Corwell, Pam Gott, Louis Massari, Vera Ratliff and Karen Arena of NEPEC for essential support in many ways. Boris Astrachan MD, of the Yale Department of Psychiatry has been an invaluable advisor and mentor throughout this evaluation, and Norman Browne, Medical Center Director at the West Haven VAMC, has been consistently helpful and supportive of our efforts. Philip Leaf PhD and Robert Milstein MD PhD have helped shape this evaluation from the beginning.

We would especially like to express our gratitude for the cooperation and efforts of the site coordinators, outreach clinicians and data managers at the 43 Sites and of the evaluation assistants at the 9 follow-up sites. We specifically want to acknowledge (in no special order): J Chester, D Campbell MSW and L Jolly, Atlanta, Ga; J Fournier MSW, N Albrecht PhD and W Cheng MSW, Augusta, Ga; D Roff, A Strite and J Heil BSW, Bath, NY; J O'Neill LCSW, Boston, Ma; D Barnes, M Englert, Buffalo, NY; N Hill ACSW, B Mizzell MSW, and C Kister MSW, Charleston, SC; I Bhatt MA, C Tyson RN and L Melka MSW, Cheyenne, WY; AR Pope MSW, Chicago, Ill (Hines); PG Courlas LISW, Cincinnati, Oh; T Dunn LCSW, T Souza LCSW and D Goldstein LCSW, Cleveland, Oh; G Townes MSW, G. Beard MA and C O'Brien, Dayton, Oh; E Trujillo MSW and J Petek MSW, Denver, Co; E Jackson LPN BSW and E Goldberg MSW, East Orange, NJ; B Gray RN MA and J Bates M Ed, Hampton, Va; M Arbuckles RN MSN, W Canteen MSW and T Courville MSW, Houston, Tx; K Vanderwater-Piercy, J Barilich ACSW, S Gross and C Lilliard ACSW, Indianapolis, In; J McGlon MSW and J Fryer MSW, Kansas City, Mo; E Morris MSW, P Helms MSN and L Rodell MSW, Little Rock, Ark; W Frink MSW, D. Shaw MSN, M Gibson MSW, Long Beach, Ca; J Stoup MSW, E Saunders LCSW, K Greaney MSN and C Jarmon, Los Angeles (OPC), Ca; B Davis RN, N Planck MSW, C Bolton RN MSN and S West, Louisville, Ky; B Allen EdD, D Kyte MSW, D Hansard MA and H Holden MSW, Mountain Home, Tn; J Eades PhD, N Moore MSW and P Coffey MSW, Nashville, Tn; A Allain PhD, K Rocky MSW, W McGowan MS and R Zepeda MSW, New Orleans, La; J Macaluso MSW, J Koment MA, L Barnadas NSW and S Grossman MSW, New York, NY; B Chrismer MSW, B Lipkin and C Davidson MSW, Perry Point, Md; C Makowsky MSW, G Baymon MSW and C Murphy MSW, Phoenix, Az; V Malec MSW, M DeWalt MSW and V Higgins RN, Pittsburgh, Pa; R Stevens MSW and M Warn MSW, Portland, Or; J McFarland ACSW, M DeMaio MSW and K Keiser PhD, Roseburg, Or; B McKee RN, MA, S Shomion MSW, L Jackson PA and J Brasatto MSW, Salt Lake City, Ut; A Miller MD, San Antonio, Tx; J Flagg PhD, D Speilberg MSW, E Pinner MSW, and H Dixon PhD San Diego, Ca; L Johnson MSW, J Mankowski MSW and M Saul-Harris, San Francisco, Ca; D Kennard MD PhD, E Paul MSW and J Fehling RN, St. Louis, Mo; C Magdziak RN and T Kohlberger MSW, Syracuse, NY; R Casey MSW and SJ Verbosky RN MSW, Tampa, Fl; H Berzes MA, S Eggelston MSW, J Hutchinson RN and Pat Gullberg RN MA Tucson, Az; L Burney MSSW and B Barrows RN, Tuskegee, Al; K Probst, K Angeil RN, V Mark RN, K Ingra-

ham MSW, Washington, D.C.; C Oliver MSW, C Brower and P Dull RN, Walla Walla, Wa; G Taylor MSW, M Santamour MSW, M Ronan LCSW and J Price, West Los Angeles, Ca; A Lewis MSSW, D Ulkoski MSW, M Goodhart MSW, Wilkes-Barre, Pa.

We would particularly like to thank the many outreach clinicians who wrote case reports and vignettes, and who sent us newspaper clippings. Beverly Gray, Patricia Gullberg and John Mankowski wrote the vignettes included in Chapter 6.

ROBERT ROSENHECK.
PEGGY GALLUP.
CATHERINE LEDA.

WEST HAVEN, CT, *December 28, 1988.*

EXECUTIVE SUMMARY

1. INTRODUCTION AND GOALS OF THIS REPORT

During the past decade, the care of the homeless mentally ill has emerged as a major public health challenge. Survey studies have suggested that between 18% and 51% of the homeless are veterans and that a significant percentage of homeless veterans served during the Vietnam Era. In May 1987, the Veterans Administration established the Homeless Chronically Mentally Ill (HCMI) Veterans Program, a program of community outreach, health care service, residential treatment and case management. Operating at 43 VA medical centers located in 26 states and the District of Columbia, this program has served 10,524 homeless veterans and placed 2,124 of them in residential treatment facilities during the first 11 months of operation, from May 1987 to March 31, 1988.

2. THE SIX STAGES OF THE HCMI VETERANS PROGRAM

The HCMI Veterans Program provides a comprehensive range of services to homeless veterans across the country. It is composed of six clinical stages:

(1) outreach in the community;

(2) intake assessment of problems and determination of immediate clinical needs;

(3) psychiatric and medical examinations and comprehensive psychosocial assessment;

(4) initiation of treatment, both directly by HCMI clinicians and through referral or linkage with other providers;

(5) residential treatment through contracts with non-VA community providers; and

(6) ongoing case management services.

3. EVALUATION PROCEDURES

The evaluation of the HCMI Program, conducted by the VA Northeast Program Evaluation Center (NEPEC) is primarily based on clinical data forms completed by HCMI clinicians and consists of three evaluation components: (1) an implementation study; (2) a follow-up evaluation component; and (3) a program monitoring system. This evaluation report has been prepared pursuant to Public Law 100-322.

4. PROGRAM STRUCTURE

The HCMI Veterans Program was established by Public Law 100-6, on February 12, 1987, and funded with $5 million for the last 6 months of Fiscal Year (FY) 1987. It was extended through FY 1988 and FY 1989 by Public Law 100-71 and Public Law 100-322, and funded with $12.5 million for FY 1988.

The 43 sites are distributed across all 7 VA Regions, and are located in 41 cities, in 26 states and the District of Columbia. HCMI sites exist in cities whose Standardized Metropolitan Statistical Areas (SMSAs) range in population from under 100,000 to over 9,000,000.

The program was put into operation within four months of its authorization by Congress and recruited over 80 clinicians, most of whom are social workers and nurses, many of whom had previously worked in VA mental health programs. By June, 1988, the 43 sites had established residential treatment contracts with 184 residential treatment facilities.

5. DESCRIPTION OF VETERANS SEEN IN THE HCMI VETERANS PROGRAM

Socio-Demographic Characteristics. Veterans assessed at intake (N=10,524) were, on average, 43 years old; 98.6% male and 1.4% female. They were 58.3% white, 33.6% black and 6.7% hispanic. Altogether 12.5% were service connected: 4.6% for a psychiatric condition and 8.6% for a medical condition. Six percent received non-service connected pensions and 42.7% received some form of VA or non-VA public support. HCMI Program veterans were younger, more often black and more often service connected than veterans in the general population.

Among those who received detailed psychosocial assessments (N=3701), only 3.6% are married, with 62.8% separated, widowed or divorced and 33.6% who had never married. Just under 80% had completed 12 years of education and 44.6% had worked at skilled manual jobs or better, higher levels of personal accomplishment and past social adjustment than are found among most other homeless populations. While 64.3% had worked at least part-time during the previous three years, only 10.5% had worked for more than 10 days during the 30 days prior to assessment. Mean income during the prior 30 days was a meager $228 (median = $90).

Homelessness. At the time of intake assessment, 83.1% were either living in shelters for the homeless or had no identifiable residence at all, while 9.2% were living intermittently with family or friends and 7.7% had a room or apartment. One-quarter (24.9%) had been homeless for less than 1 month; 43.1% for 1 month to 11 months; 10.8% for 1-2 years and 21.2% for more than two years.

Military History. Among HCMI veterans, 10.6% had served during World War II; 13.4% during the Korean era; 51.7% during the Vietnam era and 25.2% in non-combat eras. In comparison to the general veteran population, smaller percentages of HCMI veterans served in the World War II and Korean eras and greater percentages served in the Vietnam era. These contrasts are thought to reflect the fact that homeless veterans are younger than other veterans (median age=40 years in the HCMI Program vs. 53.9 years for all veterans) and are not due to Vietnam Era service per se. Altogether 30.8% claimed to have received combat pay during military service; 30.2% claimed to have been fired upon in a combat zone and 1.5% claimed to have been prisioners of war.

Involvement with the Criminal Justice System. The social marginality of these veterans was also evident in the fact that almost half of those who received psychosocial assessments (48.1%) had been in prison, 17.5% for a year or more and 8.6% for three years or more.

Substance Abuse. Over half of HCMI veterans manifested problems with substance abuse. At the time of intake assessment, 49.2% of HCMI veterans either claimed themselves or were observed to have problems with alcohol and 16.7% had problems with drugs. Almost half (44.2%) had been hospitalized in the past for an alcohol problem and 15.4% for a drug problem. On psychiatric examination (N=4,984) 55.2% were diagnosed with alcohol dependence or abuse and 18.3% with drug dependence or abuse.

Non-Substance Abuse General Psychiatric Problems. Among those assessed at intake, 38.1% reported that they had been hospitalized in the past for a general psychiatric problem and 51.6% manifested one or more severe psychiatric symptoms. Almost half (47%) received psychiatric examinations from the HCMI Veterans Program. On these examinations 97.3% received at least one psychiatric or substance abuse diagnosis as follows:

	Percent
Alcohol dependence/abuse	55.2
Drug dependence/abuse	18.3
Schizophrenia	12.3
PTSD	9.3
Affective disorder	9.3
Adjustment disorder	8.1
Bipolar disorder	4.7
Substance induced: Organic mental disorders	3.2
Anxiety disorder	2.3
Organic brain syndrome	2.2
Other psychosis	2.0
Any axis II diagnosis	18.3
Axis I or axis II diagnosis	97.3

Overall, of the 10,524 veterans assessed at intake, 79.9% had either a general psychiatric or a substance abuse problem.

Medical Disorders. Although the HCMI Program is a mental health program, many veterans seen in this program have significant medical problems. Of those assessed at intake, 45.8% felt they had a serious medical problem. Twenty-nine per cent of these veterans had further medical examinations (N=3,115). Of those who had examinations, 87.7% had a diagnosed illness, 59.6% had an illness requiring outpatient treatment and 14.6% had an illness requiring inpatient treatment.

Combined Health Care Problems. Co-morbidity was common among these veterans. Among those assessed at intake who had evidence of a general psychiatric problem, 50.8% also had an alcohol problem, 19.4% also had a drug problem and 65.9% also had a medical problem. Veterans with alcohol problems were 2.49 times as likely to have drug problems, and almost 1.5 times as likely to have medical problems as those without alcohol problems.

Recent Health Care Service Use. Health care service use was determined for 3,701 HCMI veterans who had psychosocial assessments. Only twenty-two percent of these veterans more than three outpatient visits at VA mental health *or* medical outpatient clinics during the previous six months (8.1% at mental health or alcohol outpatient clinics) and one-fourth (26.4%) had been hospitalized for a psychiatric or substance abuse problem at a VA facility during those 6 months. These data indicate that while the HCMI Program is reaching out to many veterans who have not made use of the VA, it is also providing care to homeless veterans who have previously used VA outpatient and inpatient services in an effort to curtail their homelessness and health problems.

6. CLINICAL PROCESS: OUTREACH AND ASSESSMENT

Outreach, to shelters and soup kitchens, as well as in the streets, is central to building therapeutic rapport and facilitating access to services for homeless chronically mentally ill veterans. A total of 56.8% of all intake assessments were initiated through

community outreach by HCMI clinicians. An additional 12.2% were referred to the HCMI Program by non-VA outreach workers and 24.5% either came to the VA on their own or were referred from other VA programs. Almost half (47.0%) of the intake interview assessments were conducted in community settings.

Overall 47.4% of the 10,524 veterans assessed at intake had subsequent psychiatric examinations and 29.6% had medical examinations. In view of the fact that the homeless are often difficult to engage, these percentages are quite impressive. The lack of equipment, examination space and trained personnel in community outreach settings are the main reasons for the smaller percentage of medical examinations. Experience in the HCMI Veterans Program has confirmed the impression that outreach and assertive advocacy are essential to obtaining health care services for many of the homeless mentally ill.

7. CLINICAL PROCESS: INITIATING TREATMENT AND ONGOING CASE MANAGEMENT

The process of treatment in the HCMI program is being closely studied in a follow-up evaluation at 9 of the 43 sites. Case management activities that involve making referrals to resources (84.9%), developing treatment plans (76.0%), establishing a basic relationship in the face of the veteran's distrust (58.1%) and actively monitoring the use of services (51.7%) were those most often used to describe treatment relationships in this program.

Information on the location of clinical contacts, during the first three months after starting in the program, show that most veterans had at least some clinical contracts in the community: 52.8% in shelters; 26.5% on the street and 12% in soup kitchens. However, 45.3% of these veterans had most of their clinical contacts at VA Medical Centers, suggesting that once relationships are established through community outreach, the location of treatment often shifted back to more conventional settings.

While 20.6% of homeless veterans assessed at intake had only one contact with the HCMI program, 61.4% had from 2-10 contacts and 18.1% had 11 or more contacts, over three months. These data suggest that the program is successfully engaging a significant percentage of homeless chronically mentally ill veterans in active evaluation and treatment.

Detailed information on services provided either directly by the HCMI Program or through referrals, indicate that 93.1% received some health care services, 77.4% rehabilitative service, 74.3% assistance with housing and 67.1% some basic resources such as food or clothing. Health care and rehabilitative services were more often provided directly by the program while assistance with housing or with basic resources were most often provided through referrals.

Three months after intake, 68% of these veterans had concluded their involvement in the program while 32% remained actively involved. Of those who terminated, 38.8% had been positively involved in treatment and either left for services available elsewhere or had accomplished at least limited goals; 34.3% appeared unmotivated or uninterested in treatment; and one fifth (20.2%) appeared to be unable to use treatment, mostly because of poor tolerance of the constraints required.

8. CLINICAL PROCESS: RESIDENTIAL TREATMENT

Residential treatment has proved to be a critical feature of treatment for these veterans. Between May, 1987 and March 31, 1988, 2,124 veterans were admitted to residential treatment from the 43 sites. Between 20% and 27% of veterans seen by the HCMI Program have been admitted to residential treatment.

The average length of stay in residential treatment facilities is 51.7 days with a median of 38 days. The average cost per episode of residential treatment is $1,746 (median = $1,150) and the average cost per day is $34. This per diem is somewhat higher than the $26 per day cost in the VA's substance abuse halfway house program because the level of care required by homeless chronically mentally ill veterans is generally higher than that needed by veterans with pure substance abuse problems.

Veterans admitted to residential treatment tend to have higher indices of psychiatric and medical problems and of homelessness than those not admitted, but the available data suggest that many of those not admitted also had need of residential treatment but could not obtain it because funds or beds were not available. Some of these HCMI veterans received residential treatment from VA domiciliaries or from non-contract residential treatment facilities.

9. PRELIMINARY DATA ON CLINICAL OUTCOME

Preliminary information about the outcome of treatment in the HCMI Program is available for 1,356 episodes of residential treatment; and for 638 veterans involved in the follow-up evaluation.

Veterans Discharged from Residential Treatment. In 25.6% of discharges from residential treatment the veteran was judged to have successfully completed the residential treatment program. In 32.7% the veteran left against medical advice while in 20.5% the veteran was discharged for violation of program regulations (often by drinking or using drugs) and in 10.6% the veteran left to obtain more intensive medical or psychiatric treatment elsewhere.

HCMI clinicians determined, at the time of discharge, whether there had been any improvement in alcohol problems, drug problems, psychiatric problems, medical problems and social-vocational problems. In each of these problem areas about half of the veterans showed some improvement but needed additional treatment, while only 1%-8% had improved to the point of needing no further treatment. In the care of the chronically mentally ill, the need for ongoing care is the rule rather than the exception.

The housing situation of these veterans had also improved. At the time of intake assessment, 87.4% were either living in a shelter or claimed no residence. At the time of discharge, only 10.4% had no residence or were living in a shelter, although an additional 28.8% had left residential treatment without providing any information about their residential plans and many of these may have remained homeless. Another 24.5% were living independently in apartments or rooms in the community; 17.7% were living in institutions; and 10.2% were living in transitional residences. It appears that even though 53.2% of the HCMI veterans left residential treatment under less than ideal circumstances, their clinicians felt that substantial percentages of them improved clinically and reported that they were living in better housing than when they entered the program.

Veterans in the Outcome Evaluation. Three months after their initial intake assessment, 32.2% of veterans in the outcome evaluation were still involved in the HCMI Program and 26.2% had terminated the program with some degree of success. Thus for over half (58.5%), the clinicians reported what can be interpreted as a positive engagement in treatment. The remaining veterans had less constructive involvement with the HCMI Program because they did not want help for various reasons (23.3%) or because their psychopathology or personal psychology made it difficult for them to use the help offered by the program (13.7%).

As with the residential treatment subgroup, HCMI clinicians determined, for each follow-up veteran whether there had been improvement in health care and social adjustment problem areas. The findings in the outcome sub-group were generally similar to those in the residential treatment sub-group, with more than half of the veterans showing improvement in psychiatric and medical health care problem areas and 40%-70% showing improvement in social, vocational or financial problem areas.

Improvement was also noted in the following-up veterans' residential circumstances. While 90.2% had been living in shelters or without any place to stay at intake, only 45.7% were living in shelters or had no residence at the time of last contact with a clinician. At that time, 16.4% were living in apartments or rooms in the community; 20.7% were in HCMI contract residential treatment facilities; 8.6% were in institutions and 3.1% were in non-VA funded residential treatment facilities.

10. SUMMARY AND CONCLUSION

Data presented in this report show that the HCMI Veterans Program has been implemented as planned and is providing outreach, health care, case management and residential treatment services to large numbers of homeless chronically mentally ill veterans across the country. Preliminary evidence suggests that the program is effective in improving health care and residential status for many of these veterans.

By Mr. JOHNSTON (for himself and Mr. McCLURE):

S. 406. A bill to authorize competitive oil and gas leasing and development on the Coastal Plain of the Arctic National Wildlife refuge in a manner consistent with protection of the environment, and for other purposes; to the Committee on Energy and Natural Resources.

ARCTIC COASTAL PLAIN COMPETITIVE OIL AND GAS LEASING ACT

● Mr. JOHNSTON. Mr. President, today I am introducing the Arctic Coastal Plain Competitive Oil and Gas Leasing Act, legislation that would authorize and direct the Secretary of the Interior to establish and implement a competitive oil and gas leasing program for the Coastal Plain of the Arctic National Wildlife Refuge [ANWR], Alaska. The bill provides for the phased competitive leasing of the Coastal Plain, imposes strict environmental standards, requires that exploration, development and production be undertaken in a manner consistent with the interests of the area's subsistence users, and provides that a significant portion of ANWR revenues be available for use in conservation programs including the Land and Water

Conservation Fund, and wetlands protection, acquisition, and restoration.

In addition, I am submitting three amendments, all of which were included in the ANWR bill favorably reported by the Committee on Energy and Natural Resources last Congress. The amendments set forth a congressional determination compatibility, the adequacy of the legislative environmental impact statement, and provide specific requirements relating to environmental protection of the Coastal Plain.

THE ARCTIC NATIONAL WILDLIFE REFUGE

Mr. President, in 1980, Congress enacted the Alaska National Interest Lands Conservation Act [ANILCA], establishing 16 National Wildlife Refuges in Alaska, including a 9 million acre addition to the existing 10 million acre Arctic National Wildlife Refuge. ANWR offers wildlife, scientific, recreational, and esthetic values unique to the Arctic coastal ecosystem. Found on the refuge is a full complement of arctic flora and fauna, including the calving grounds for the Porcupine caribou herd, the second largest in Alaska—approximately 180,000 caribou—and habitat for the threatened Arctic peregrine falcon, the lesser snow goose, other migratory bird species, and reintroduced muskoxen.

At the same time, the North Slope of Alaska, and the coastal plain area of ANWR in particular, have long been recognized as areas with excellent potential for large oil and gas reserves. Located 65 miles west of the ANWR, the Prudhoe Bay field has proven to be the largest in North America with original producible reserves of 9.6 billion barrels of oil and 26 trillion cubic feet of gas. Current production from Prudhoe Bay averages 1.8 million barrels per day—approximately 20 percent of the total U.S. domestic crude oil production. For years, the coastal plain area of ANWR has been rated by many geologists as the most outstanding target in the onshore United States with reserves which could match those found in Prudhoe Bay.

THE 1002 REPORT

Mr. President, during the consideration of ANILCA in 1980, Congress recognized that further information was necessary before a decision was made as to whether all of ANWR should be included in the National Wilderness Preservation System or whether at least some of this areas should be made available for oil and gas exploration and development. Section 1002 of ANILCA required the Secretary of the Interior to study comprehensively a 1.5-million-acre strip—100 miles long and 30 miles wide—along the coast of ANWR—the Coastal Plain—the area generally recognized as having the highest oil and gas recovery potential.

In April 1987, the Secretary of the Interior transmitted the report required by section 1002 of ANILCA—"1002 Report"—to the Congress. The Secretary recommended that the entire 1.5 million acre Coastal Plain be opened to oil and gas leasing.

The 1002 Report estimated that there is a 95-percent chance that the Coastal Plain contains more than 4.8 billion barrels of oil and 11.5 trillion cubic feet of gas in place. According to the report, there is a 5-percent chance that the Coastal Plain contains 29.4 billion barrels of oil and 64.5 trillion cubic feet of gas. The report stated that the economically recoverable reserves could range from a low of 600,000 barrels to up to 9.2 billion barrels.

While the 1002 Report concluded that exploration and development drilling would have only minor effects on wildlife resources in the 1002 area, full production would have potentially major effects on the 180,000 caribou in the Porcupine caribou herd and on muskoxen in the refuge. The report noted that oil development "would result in long term changes in the wilderness environment, wildlife habitats, and Native community activities currently existing."

However, the 1002 Report emphasized that the growing U.S. reliance on imported oil could have potentially serious implications for national security. The report pointed out that domestic production declined in 1986 by 10 percent and projected a further decline of 4 to 5 percent in 1987. A recent study by the American Petroleum Institute reported that oil production in 1988 hit a 12-year low. At the same time, U.S. consumption is on the rise. OPEC countries are expected to supply up to 60 percent of the world oil by 1995 when the United States will import over half of its supplies at an estimated cost of $80 billion. According to the 1002 Report, based on the mean recoverable oil estimate of 3.2 billion barrels, ANWR production by the year 2006 could provide 4 percent of total U.S. demand (about 660,000 barrels per day) and reduce imports by nearly 9 percent.

Mr. President, the billions of barrels of oil that may exist in the 1002 area could make an important contribution to the national need for domestic sources of oil. Alaska North Slope crude oil, especially that from Prudhoe Bay, now contributes approximately 20 percent of domestic production. However, production from Prudhoe Bay has peaked and a decline is expected no later than 1988. Oil from the 1002 area could help moderate these declines in supply and substantially reduce the need for increased imports.

THE LEGISLATION

Last Congress, the Senate Committee on Energy and Natural Resources concluded 9 days of hearings on this matter, during which it carefully considered the findings of the 1002 Report as well as extensive testimony provided by witnesses representing a wide range of views. On February 25, 1988, after five business meetings, the committee voted that S. 2214 be favorably reported as an original measure.

Mr. President, the bill and amendments I introduce today are the same as the legislation reported by the committee last Congress, with, in addition to technical and clarifying modifications, two substantive changes. First, the bill alters the distribution of revenues from leasing activities so that 25 percent would go to the Land and Water Conservation Fund, 15 percent would be used for the acquisition, protection, creation, and restoration of wetlands, 10 percent would go to the U.S. Treasury, and 50 percent would continue to go to the State of Alaska.

Second, the bill deletes titles VII through X of the bill reported last Congress. Titles VII and VIII became public law through congressional action during the 100th Congress. Title IX, calling for an energy plan, and Title X, imposing export prohibitions, were added to the joint staff draft—the markup document—by the committee during its consideration of this matter. Such provisions may again be taken up by the committee when it considers this bill.

Mr. President, given its significant potential, I believe that exploration, development, and production on the Coastal Plain is a key component to our efforts increase domestic oil and gas resources. At a time when production from other major fields in the United States is declining, I believe that it is important that we proceed with exploration and development of the Coastal Plain.

However, we must ensure that development occurs in an environmentally sensitive, orderly, and sound manner. My legislation imposes a strict standard of environmental protection: That activities result in "no significant adverse effect on fish and wildlife, their habitat, and the environment" of the Coastal Plain and that the "best commercially available technology" be applied on all new operations and, whenever practicable, on existing operations.

The legislation allows the Secretary to exclude from leasing areas of the Coastal Plain deemed to be of particular environmental sensitivity. It imposes specific minimum environmental requirements, mandates reclamation to a "condition as closely approximating the original condition of such lands as is feasible using the best commercially available technology," authorizes the Secretary of the Interior to clean up pollution from discharges of oil or hazardous or toxic substances at the expense of the responsible party, and establishes a $50 million

reclamation fund for use in reclaiming the Coastal Plain and other North Slope lands. Finally, the legislation modifies existing law to ensure that a significant portion of ANWR revenues are available for several important conservation programs and for wetlands protection, acquisition, and restoration.

Mr. President, I am aware that this is a difficult and controversial matter. However, I sincerely believe that this legislation is a responsible measure which balances the need for environmental protection with the need for energy development, production, and independence. I ask my colleagues to join me in supporting this legislation.

Mr. President, I ask unanimous consent that the full text of the bill, together with the section-by-section analysis, be printed in the RECORD.

(The text of the amendments is printed in today's RECORD under "Amendments Submitted".)

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

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress Assembled, That this Act may be cited as the "Arctic Coastal Plain Competitive Oil and Gas Leasing Act".

TITLE I. STATEMENT OF PURPOSE AND DEFINITIONS

SEC. 101. PURPOSE AND POLICY.—The Congress hereby declares that it is the purpose and policy of this Act:

(a) to authorize competitive oil and gas leasing and development to proceed on the Coastal Plain in a manner consistent with protection of the environment, maintenance of fish and wildlife and their habitat, and the interests of the area's subsistence users; and

(b) to provide a new source of funding for the Land and Water Conservation Fund, Migratory Bird Conservation Fund and other fish and wildlife management programs, and for the acquisition, protection, creation, and restoration of wetlands, and for other purposes.

SEC. 102. DEFINITIONS.—When used in this Act—

(a) The term "Coastal Plain" means that area identified as such in the map entitled "Arctic National Wildlife Refuge", dated August 1980, as referenced in section 1002(b) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. Sec. 3142(b)(1)) comprising approximately one million five hundred forty-nine thousand acres; and

(b) The term "Secretary" means the Secretary of the Interior or the Secretary's designee.

TITLE II. COASTAL PLAIN COMPETITIVE LEASING PROGRAM

SEC. 201. LEASING PROGRAM FOR LANDS WITHIN THE COASTAL PLAIN.—(a) The Congress hereby authorizes and directs the Secretary of the Interior and other appropriate Federal officers and agencies to take such actions as are necessary to establish and implement a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain. Activities pursuant to such program shall be undertaken:

(1) in accordance with the development requirements set out in Title III of this Act; and

(2) in a manner to ensure the receipt of fair market value by the public for the mineral resources to be leased.

(b) This Act shall be the sole authority for leasing on the Coastal Plain.

SEC. 202. RULES AND REGULATIONS.—(a) The Secretary shall prescribe such rules and regulations as may be necessary to carry out the purposes and provisions of this Act, including rules and regulations relating to protection of the environment of the Coastal Plain, as required by Title III of this Act. Such rules and regulations shall be promulgated within nine months after the date of enactment of this Act and shall, as of their effective date, apply to all operations conducted under a lease issued or maintained under the provisions of this Act.

(b) In the formulation and promulgation of rules and regulations under this Act, the Secretary shall request and give due consideration to the views of appropriate officials of the State of Alaska and the Government of Canada. The Secretary shall also consult with the Environmental Protection Agency and the Army Corps of Engineers in developing rules and regulations relating to the environment.

(c) The Secretary shall periodically review and, if appropriate, revise the rules and regulations issued under subsection (a) of this section to reflect any significant biological, environmental, or engineering data which come to the Secretary's attention.

SEC. 203. LEASE SALES.—(a) Lands may be leased pursuant to the provisions of this Act to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act, as amended (30 U.S.C. Sec. 181).

(b) The Secretary shall, by regulation, establish procedures for—

(1) receipt and consideration of sealed nominations for any area in the Coastal Plain for inclusion in, or exclusion from, a lease sale;

(2) public notice of and comment on designation of areas to be included in, or excluded from, a lease sale;

(3) review by the State of Alaska and local governments in Alaska which may be impacted by the proposed leasing; and Exchange

(4) periodic consultation with the State of Alaska and local governments in Alaska, oil and gas lessess, and representatives of other individuals or organizations engaged in activity in or on the Coastal Plain including those involved in subsistence uses and recreational activities.

(c) The Secretary shall, by regulation, provide for lease sales of lands on the Coastal Plain. When lease sales are to be held, they shall occur after the nomination process provided for in subsection (b) of this section. For the first lease sale, the Secretary shall, consistent with the requirements set forth in Title III of this Act, offer for lease those acres receiving the greatest number of nominations, but not to exceed a total of three hundred thousand acres. If the total acreage nominated is less than three hundred thousand acres, he shall include in such sale any other acreage which he believes has the highest resource potential, but in no event shall more than three hundred thousand acres of the Coastal Plain be offered in such sale. Thereafter, no more than three hundred thousand acres of the Coastal Plain may be leased in any one lease sale. The initial lease sale shall be held within eighteen months of the issuance of final regulations by the Secretary. The second lease sale shall be held thirty-six months after the initial sale, with additional sales conducted every twenty-four months thereafter so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

(d) Areas of the Coastal Plain deemed by the Secretary to be of particular environmental sensitivity may be excluded from leasing by the Secretary. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives ninety days in advance of excluding any such areas from leasing. If the Secretary later determines that exploration, development, or production will result in no significant adverse effect on fish and wildlife, their habitat, and the environment, the Secretary shall, consistent with the provisions of subsection (c) of this section, offer such lands for leasing.

SEC. 204. GRANT OF LEASES BY THE SECRETARY.—(a) The Secretary is authorized to grant to the highest responsible qualified bidder by sealed competitive bid any lands to be leased on the Coastal Plain upon payment by the lease of such bonus as may be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall be not less than 12½ per centum in amount or value of the production removed or sold from the lease.

(b) The Secretary shall not accept a bid for lease if the Secretary finds, after notice and hearing, that the bidder is not meeting diligent development requirements on any other Federal mineral lease.

SEC. 205. LEASE TERMS AND CONDITIONS.—An oil and gas lease issued pursuant to this section shall—

(a) be for a tract consisting of a compact area not to exceed two thousand five hundred sixty acres;

(b) be for an initial period of ten years and as long thereafter as oil or gas is produced in paying quantities or drilling or well reworking operations as approved by the Secretary are operated thereon;

(c) require the payment of royalty as provided for in section 205 of this Act;

(d) require approval of an exploration plan, as provided for in section 207 of this Act;

(e) require approval of a development and production plan, as required in section 207 of this Act;

(f) require posting of bond required by section 208 of this Act;

(g) provide for the suspension of the lease during the initial lease term or thereafter pursuant to section 209 of this Act;

(h) provide for the cancellation of the lease during the initial lease term or thereafter pursuant to section 210 of this Act,

(i) contain the terms and conditions relating to protection of fish and wildlife, their habitat, and the environment, as required by title III of this Act; and

(j) contain such rental and other provisions as the Secretary may prescribe at the time of offering the area for lease.

SEC. 206. Exploration and Development and Production Plans.—(a) Exploration Plans.—All exploration activities pursuant to any lease issued or maintained under this Act shall be conducted in accordance with an approved exploration plan or an approved revision of such plan. Prior to com-

mencing exploration pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit an exploration plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any region of the Coastal Plain, or by a group of lessee acting under a unitization, pooling, or drilling agreement, shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act and other applicable law.

(b) OIL AND GAS DEVELOPMENT AND PRODUCTION PLANS.—All development and production pursuant to a lease issued or maintained pursuant to this Act shall be conducted in accordance with an approved development and production plan. Prior to commencing development or production pursuant to any oil and gas lease issued or maintained under this Act, the holder thereof shall submit a development and production plan to the Secretary for approval. Such plan may apply to more than one lease held by a lessee in any region of the Coastal Plain, or by a group of lessees acting under a unitization, pooling, or drilling agreement, and shall be approved by the Secretary if he finds that such plan is consistent with the provisions of this Act and other applicable law.

(c) REQUIREMENTS APPLICABLE TO EXPLORATION PLANS AND DEVELOPMENT AND PRODUCTION PLANS.—Exploration plans and development and production plans shall include where applicable—

(1) the names and legal addresses of the following persons: the operator, contractors, subcontractors and the owners or lessees other than the operator;

(2) a map or maps showing: (A) the location of a point of reference selected by the operator within the area covered by the plan of operations showing, in relation to that point, existing and proposed access routes or roads within the area, the boundaries of proposed surface disturbance and location of all survey lines; (B) the location of proposed drilling sites, wellsite layout, and all surface facilities; (C) sources of construction materials within the area including but not limited to gravel; and (D) the location of ancillary facilities including but not limited to camps, sanitary facilities, water supply, diposal facilities, pipelines, fuel storage facilities, storage facilities, base of operations, and airstrips. A point of reference selected by the operator within the area of operations shall be marked with a ground monument.

(3) a description of: (A) all surface and ancillary facilities, including but not limited to camps, sanitary facilities, water supply, disposal facilities, pipelines, fuel storage facilities, storage facilities, base of operations, and airstrips; and (B) the major equipment to be used in the operations, including but not limited to equipment and methods for the transport of all waters used in or produced by operations, and of the proposed method of transporting such equipment within the area covered by the plan of operations including to and from the site;

(4) an estimated schedule for any phase of operations of which review by the Secretary is sought and the anticipated date of operation completion;

(5) the nature and extent of proposed operations;

(6) plans for reclamation, including:

(A) the anticipated reclamation work to be performed;

(B) a proposed schedule of reclamation activities to be performed; and

(C) a detailed estimate of reclamation costs;

(7) methods for disposal of all wastes and hazardous and toxic substances;

(8) an affidavit stating that the operations planned will be in compliance with all applicable Federal, State, and local laws and regulations;

(9) contingency plans in case of spills, leaks, or other accidents; and

(10) such additional information as may be required by the Secretary to ensure that the proposed activities are consistent with this Act, as well as other applicable Federal and State environmental laws.

(d) PROCEDURES FOR PLAN APPROVAL.—(1) After an exploration or development and production plan is submitted for approval, the Secretary shall promptly publish notice of the submission and availability of the text of the proposed plan in the FEDERAL REGISTER and a newspaper of general circulation in the State of Alaska and provide an opportunity for written public comment.

(2) Within one hundred twenty days after receiving an exploration or development and production plan, the Secretary shall determine, after taking into account any comment received under paragraph (1) of this subsection, whether the activities proposed in the plan are consistent with this Act and other applicable provisions of Federal and State law. If that determination is in the affirmative, the Secretary shall return the plan along with a statement of any modifications necessary for its approval. The Secretary, as a condition of approving any plan under this section—

(A) may require modifications to the plan that he considers necessary or appropriate to make it consistent with this Act and other applicable law. The Secretary shall assess reasonable fees or charges for the reimbursement of all necessary and reasonable research, administrative, monitoring, enforcement, and reporting costs associated with reviewing the plan and monitoring its implementation; and

(B) shall require such periodic reports regarding the carrying out of the drilling and related activities as may be necessary or appropriate for purposes of determining the extent to which the plan is being complied with and the effectiveness of the plan in ensuring that the drilling and related activities are consistent with this Act and other applicable provisions of Federal and State law.

(e) MODIFICATION OF PLANS.—If at any time while activities are being carried out under a plan approved under this section, the Secretary, on the basis of available information, determines that the continuation of any particular activity under the plan is likely to result in a significant adverse effect on fish or wildlife, their habitat, or the environment, the Secretary, after consultation with the lessee shall—

(1) make modifications to part or all of the plan as necessary or appropriate to avoid the significant adverse effect;

(2) temporarily suspend part or all of the drilling or related activity under the plan for such time as the Secretary considers necessary or appropriate to avoid such significant adverse effect; or

(3) terminate and cancel the plan where actions under paragraph (1) or (2) will not avoid the significant adverse effect.

SEC. 207. BONDING REQUIREMENTS.—

(a) REQUIREMENT FOR PERFORMANCE BOND.—After approval of an exploration or development and production plan, the lessee shall be required to file with the Secretary a suitable performance bond. The bond shall be conditioned upon compliance with all the terms and conditions of the lease and all applicable laws. Such performance bond is in addition to and not in lieu of any bond or security deposit required by other regulatory authorities. The lessee may file either a surety bond, or a personal bond consisting of cash or negotiable Treasury bonds of the United States. When negotiable Treasury bonds serve as the personal bond, they shall be accompanied by a proper conveyance to the Secretary of full authority to sell such securities in case of a default in the performance of the terms and conditions of the lease.

(b) AMOUNT OF PERFORMANCE BOND.—The performance bond shall be in an amount:

(1) to be determined by the Secretary to provide for reclamation of the lease site in accordance with an approved or revised exploration or development and production plan; plus

(2) an amount set by the Secretary consistent with the type of operations proposed, to provide the means for rapid and effective cleanup, and to minimize damages resulting from an oil spill, the escape of gas, refuse, domestic wastewater, hazardous or toxic substances, or fire caused by oil and gas activities. This amount shall not exceed $500,000.00 for geophysical surveys, and shall not exceed a blanket bond of $1,000,000.00 for all exploration activities and an additional $1,500,000.00 for all development and production activities on the Coastal Plain.

(c) ADJUSTMENT OF BOND TO CONFORM TO REVISED PLAN.—In the event that an approved exploration or development and production plan is revised, the Secretary may adjust the amount of the bond to conform to such modified plan.

(d) DURATION OF BOND.—The responsibility and liability of the lessee and its surety under the bond or security deposit shall continue until such time as the Secretary determines that there has been compliance with the terms and conditions of the lease of all applicable law.

(e) TERMINATION OF LIABILITY.—Within sixty days after determining that there has been compliance with the terms and conditions of the lease and all applicable laws, the Secretary shall notify the lessee that the period of liability under the bond or security deposit has been terminated.

SEC. 208. LEASE SUSPENSION.—The Secretary may direct or assent to the suspension of operations and production under any lease granted under the terms of this Act: (1) in the interest of conservation of the resource; (2) where there is no available system to transport the resource; or (3) where there is a threat of significant adverse effect upon fish or wildlife, their habitat or the environment. If such a suspension is directed or assented to by the Secretary, any payment of rental prescribed by such lease shall be suspended during such period of suspension of operations and production, and the term of the lease shall be extended by adding any such suspension period thereto.

SEC. 209. LEASE CANCELLATION.—(a) CANCELLATION OF NONPRODUCING LEASE.—Whenever the owner of a nonproducing lease fails to comply with any of the provisions of this Act, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this Act, such lease may be cancelled by the Secretary if such default continues for the period of thirty days after mailing of notice

by registered letter to the lease owner at the lease owner's record post office address.

(b) CANCELLATION OF PRODUCING LEASE.—Whenever the owner of any producing lease fails to comply with any of the provisions of this Act, or of any applicable provision of Federal or State environmental law, or of the lease, or of any regulation issued under this Act, such lease may be forfeited and cancelled by any appropriate proceeding brought by the Secretary in any United States district court having jurisdiction under the provisions of this Act.

(c) ADDITIONAL PROVISIONS.—(1) In addition to the authority for lease cancellation provided for by subsections (a) and (b) of this section, any lease may be cancelled at any time, if the Secretary determines, after a hearing, that—

(A) continued activity pursuant to such lease is likely to result in a significant adverse effect to fish or wildlife, their habitat, or the environment, or is likely to result in serious harm or damage to human life, to property, or to the national security or defense; and

(B) the likelihood of a significant adverse effect will not disappear within a reasonable period of time or the threat of harm or damage will not disappear or decrease to any acceptable extent within a reasonable period of time.

(2) Such cancellation shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease term continuously for a period of five years, or for a lesser period upon request of the lessee.

(3) Cancellation under this subsection shall entitle the lessee to receive such compensation as the lessee demonstrates to the Secretary to be equal to the excess, if any, over the lessee's revenues from the lease (plus interest thereon from the date of receipt to the date of reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement).

SEC. 210. ASSIGNMENT OR SUBLETTING OF LEASES.—No lease issued under the authority of this Act shall be assigned or sublet, except with the consent of the Secretary.

SEC. 211. RELINQUISHMENT.—The lessee may, at the discretion of the Secretary, be permitted at any time to make written relinquishment of all rights under any lease issued pursuant to this Act. The Secretary shall accept the relinquishment by the lessee of any lease issued under this Act where there has not been surface disturbance on the lands covered by the lease.

SEC. 212. UNITIZATION.—For the purpose of conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof and in order to avoid the unnecessary duplication of facilities, to protect the environment of the Coastal Plain, and to protect correlative rights, the Secretary shall require to the greatest extent practicable, that lessees unite with each other in collectively adopting and operating under a cooperative or unit plan of development for operation of such pool, field, or like area, or any part thereof.

SEC. 213. OIL AND GAS INFORMATION.—(a)(1) Any lessee or permittee conducting any exploration for, or development or production of, oil or gas pursuant to this Act shall provide the Secretary access to all data and information (including processed, analyzed, and interpreted information) obtained from such activity and shall provide copies of such data and information as the Secretary may request. Such data and information shall be provided in accordance with regulations which the Secretary shall prescribe.

(2) If interpreted information provided pursuant to paragraph (1) of this subsection is provided in good faith by the lessee or permittee, such lessee or permittee shall not be responsible for any consequence of the use or of reliance upon such interpreted information.

(3) Whenever any data or information is provided to the Secretary, pursuant to paragraph (1) of this subsection—

(A) by a lessee or permittee, in the form and manner of processing which is utilized by such lessee or permittee in the normal conduct of business, the Secretary shall pay the reasonable cost of reproducing such data and information;

(B) by a lessee or permittee, in such other form and manner of processing as the Secretary may request, the Secretary shall pay the reasonable cost of processing and reproducing such data and information.

(b) The Secretary shall prescribe regulations to: (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained; and (2) set forth the time periods and conditions which shall be applicable to the release of such information.

SEC. 214. REMEDIES AND PENALTIES. (a) GENERAL.—Except as provided in section 215 of this Act, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with, any lease issued under this act. Proceedings may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district in which the Coastal Plain is located.

(b) ACTIONS FOR RELIEF.—At the request of the Secretary, the Attorney General or a United States Attorney shall institute a civil action in the district court of the United States for the district in which any defendant resides or may be found, or in the judicial district in which the Coastal Plain is located, for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of this Act, any regulation or order issued under this Act, or any term of a lease issued pursuant to this Act.

(c) CIVIL PENALTIES.—If any person fails to comply with any provision of this Act, or any term of a lease issued pursuant to this Act, or any regulation or order issued under this Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Secretary may assess, collect and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing.

(d) CRIMINAL PENALTIES.—Any person who knowingly and willfully: (1) violates any provision of this Act, any term of a lease issued pursuant to this Act, or any regulation or order issued under the authority of this Act designated to protect health, safety, or the environment or conserve natural resources; (2) makes any false statement, representation, or certification in any application, record, report or other document filed or required to be maintained under this Act; (3) falsifies, tampers with, or renders inaccurate any monitoring device or method of record required to be maintained under this Act; or (4) reveals any data or information required to be kept confidential by this Act, shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both. Each day that a violation under clause (1) of this subsection continues, or each day that any monitoring device or data recorder remains inoperative or inaccurate because of any activity described in clause (3) of this subsection, shall constitute a separate violation.

(e) LIABILITY OF CORPORATE OFFICERS AND AGENTS FOR VIOLATIONS BY CORPORATION.—Whenever a corporation or other entity is subject to prosecution under subsection (d) of this section, any officer or agent of such corporation or entity who knowingly and willfuly authorized, ordered, or carried out the proscribed activity shall be subject to the same fines or imprisonment, or both, as provided for under subsection (d) of this section.

(f) CONCURRENT AND CUMULATIVE NATURE OF PENALTIES.—The remedies and penalties prescribed in this Act shall be concurrent and cumulative and the exercise of one shall not preclude the exercise of the others. Further, the remedies and penalties prescribed in this Act shall be in addition to any other remedies and penalties afforded by any other law or regulation.

(g) REMOVAL COSTS AND LIABILITY FOR DAMAGES.—Notwithstanding any other provision of law, if any area of the Coastal Plain has been or is being polluted by discharges of oil or hazardous or toxic substances from exploration, development, or production of oil or gas or related activities, conducted by, or on behalf of, a responsible party, and if the pollution has damaged or is damaging fish or wildlife, their habitat, or the environment of the Coastal Plain, or if such pollution is causing a substantial threat of damaging those fish or wildlife, their habitat, or the environment of the Coastal Plain, the responsible party shall be jointly, severally and strictly liable for the removal costs and damages specified in this subsection that arise directly out of or directly result from pollution that has damaged or is damaging or is causing a substantial threat of damaging fish or wildlife, their habitat, or the environment of the Coastal Plain. The Secretary shall make a determination with respect to such liability after notice to the responsible party and an opportunity for hearing. Upon failure of the responsible party adequately to control and remove the pollutant or threat, the Secretary, in cooperation with other Federal, State or local agencies, or in cooperation with the responsible party, or both, shall have the right to accomplish the control and removal at this expense of the responsible party. Funds contained in the Coastal Plain Liability and Reclamation Fund, provided for by section 402 of this Act, may be used to accomplish such control and removal until such time as sufficient funds can be recovered from the responsible party. The removal costs and damages referred to in this subsection are the following—

(1) all necessary removal costs as determined by the Secretary;

(2) damages for injury to, destruction of, loss of, and reclamation of natural resources, including the reasonable costs of assessing such injury, destruction, loss or reclamation; and

(3) damages for economic loss resulting from injury to, or destruction of, real or personal property or natural resources, and loss of subsistence use of natural resources by local residents.

SEC. 215. EXPEDITED JUDICIAL REVIEW.—Any complaint filed seeking judicial review of an action of the Secretary in promulgating any regulation under this Act may be filed only in the United States Court of Appeals for the District of Columbia, and such complaint shall be filed within ninety days from the date of such promulgation, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint. Any complaint seeking judicial review of any actions of the Secretary under this Act may be filed in any appropriate district court of the United States, and such complaint must be filed within ninety days from the date of the action being challenged, or after such date if such complaint is based solely on grounds arising after such ninetieth day, in which case the complaint must be filed within ninety days after the complainant knew or reasonably should have known of the grounds for the complaint.

SEC. 216. ANNUAL REPORT TO CONGRESS.—On March 1st of each year following the date of enactment of this Act, the Secretary of the Interior shall prepare and submit to the Congress an annual report on the leasing program authorized by this Act.

SEC. 217. PROPERTY INTERESTS OF THE INUPIAT ESKIMO PEOPLE.—The prohibitions and limitations contained in section 1003 of Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. Sec. 3143), insofar as they have application to the subsurface property interests owned by the Inupiat Eskimo people within and adjacent to the Coastal Plain, are repealed. No surface disturbance in support of oil or gas development or production involving such subsurface property interests shall be authorized prior to publication of final regulations issued pursuant to this Act which establish environmental stipulations, terms and conditions for oil and gas leasing on the Coastal Plain. The substantive provisions of such environmental stipulations, terms and conditions shall apply to the development of all subsurface property interests owned by the Inupiat Eskimo people within and adjacent to the Coastal Plain.

TITLE III—COASTAL PLAIN DEVELOPMENT REQUIREMENTS

SEC. 301. NO SIGNIFICANT ADVERSE EFFECT STANDARD TO GOVERN AUTHORIZED COASTAL PLAIN ACTIVITIES.—The Secretary shall administer the provisions of this Act through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment, and that shall require the application of the best commercially available technology for oil and gas exploration, development, and production, on all new exploration, development, and production operations, and whenever practicable, on existing operations.

SEC. 302. SADLEROCHIT SPRING SPECIAL AREA.—(a)(1) The Sadlerochit Spring area, comprising approximately four thousand acres as depicted on the map referenced in section 102 of this Act, is hereby designated to be a Special Area. Such Special Area shall be managed so as to protect and preserve the area's unique and diverse character including its fish, wildlife, and subsistence resource values.

(2) Pursuant to subsection (d) of section 203 of this Act, the Secretary may exclude the Sadlerochit Spring Special Area from leasing.

(3) In the event that the Secretary leases the Sadlerochit Spring Special Area, or any part thereof, for purposes of oil and gas exploration, development, production, and related activities, there shall be no surface occupancy of the lands comprising the Special Area.

(b) The Secretary is authorized to designate other areas of the Coastal Plain as Special Areas if the Secretary determines that they are of unique character and interest so as to require such special protection. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives of the Secretary's intent to designate such areas ninety days in advance of making such designations. Any such areas designated as Special Areas shall be managed in accordance with the standards set forth in subsection (a) of this section.

SEC. 303. FACILITY CONSOLIDATION PLANNING.—(a) The Secretary shall, after providing for public notice and comment, prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources. This plan shall have the following objectives:

(1) avoiding unnecessary duplication of facilities and activities;

(2) encouraging consolidation of common facilities and activities;

(3) locating or confining facilities and activities to areas which will minimize impact on fish and wildlife, their habitat, and the environment;

(4) utilizing existing facilities wherever practicable; and

(5) enhancing compatibility between wildlife values and development activities.

(b) The plan prepared under this section shall supplement any comprehensive conservation plan prepared pursuant to the requirements of section 304(g) of the Alaska National Interest Lands Conservation Act of 1980 (94 Stat. 2394).

SEC. 304. RIGHTS-OF-WAY ACROSS THE COASTAL PLAIN.—Notwithstanding Title XI of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3161 et seq.), the Secretary is authorized to grant under section 28 of the Mineral Leasing Act (30 U.S.C. 185) rights-of-way and easement across the Coastal Plain for the transportation of oil and gas under such terms and conditions as may be necessary so as not to result in a significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain. Such terms and conditions shall include requirements that facilities be sited or modified so as to avoid unnecessary duplication of roads and pipelines. The comprehensive oil and gas leasing and development regulations issued pursuant to this Act shall include provisions regarding the granting of rights-of-way across the Coastal Plain.

SEC. 305. ENFORCEMENT OF REGULATIONS. (a) RESPONSIBILITY OF THE SECRETARY.—The Secretary shall diligently enforce all regulations, lease terms, conditions, restrictions, prohibitions, and stipulations promulgated pursuant to this Act.

(b) RESPONSIBILITIES OF HOLDERS OF LEASE.—It shall be the responsibility of any holder of a lease under this Act to—

(1) maintain all operations within such lease area in compliance with regulations intended to protect persons and property on, and fish and wildlife, their habitat, and the environment of, the Coastal Plain; and

(2) allow prompt access at the site of any operations subject to regulation under this Act to any appropriate Federal or State inspector, and to provide such documents and records which are pertinent to occupational or public health, safety, or environmental protection, as may be requested.

(c) ONSITE INSPECTION OF FACILITIES.—The Secretary shall promulgate regulations to provide for—

(1) scheduled onsite inspection by the Secretary, at least twice a year, of each facility on the Coastal Plain which is subject to any environmental or safety regulation promulgated pursuant to this Act or such provisions contained in any lease issued pursuant to this Act to assure compliance with such environmental or safety regulations; and

(2) periodic onsite inspection by the Secretary at least once a year without advance notice to the operator of such facility to assure compliance with all environmental or safety regulations.

TITLE IV.—LAND RECLAMATION AND RECLAMATION LIABILITY FUND

SEC. 401. LAND RECLAMATION.—The holder of a lease or leases on lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands adversely affected in connection with exploration, development, or transportation activities on a lease within the Coastal Plain. The holder of a lease shall also be responsible for conducting any land reclamation required as a result of activities conducted on the lease by any of the lease holder's subcontractors or agents. The holder of a lease may not delegate or convey, by contract or otherwise, this responsibility and liability to another party without the express written approval of the Secretary.

SEC. 402. STANDARD TO GOVERN LAND RECLAMATION.—The standard to govern the reclamation of lands required to be reclaimed under this Act, following their temporary disturbance or upon the conclusion of their use or prolonged commercial production of oil and gas and related activities, shall be reclamation and restoration to a condition as closely approximating the original condition of such lands as is feasible using the best commercially-available technology. Reclamation of lands shall be conducted in a manner that will not itself impair or cause significant adverse effects on fish or wildlife, thier habitat, or the environment.

SEC. 403. COASTAL PLAIN LIABILITY AND RECLAMATION FUND.—(a) Within six months of a commercial discovery within the Coastal Plain, the Coastal Plain Liability and Reclamation Fund (the "Reclamation Fund") is hereby directed to be established as a non-profit corporate entity under the laws of Alaska that may sue and be sued in its own name. The Reclamation Fund shall be established and administered by the holder of the trans-Alaska pipeline right-of-way under regulations prescribed by the Secretary. The Reclamation Fund shall be subject to an annual audit by the Comptroller General, and a copy of the audit shall be submitted to the Congress.

(b) The operator of the trans-Alaska pipeline shall collect from the owner of any

commercially-produced crude oil or natural gas liquids from the Coastal Plain at the time and point where such crude oil first enters the trans-Alaska pipeline a fee of five cents per barrel. The collection of the fee shall cease when $50,000,000 has been accumulated in the Reclamation Fund, and it shall be resumed at any time that the accumulation of revenue in the Reclamation Fund falls below $45,000,000.

(c) All revenues collected under subsection (b) shall be paid into the Reclamation Fund. The reasonable costs of administration of the Reclamation Fund shall be paid from the revenues in the Reclamation Fund. All sums not needed for administration of the Reclamation Fund or making authorized payments out of the Fund shall be invested prudently in income-producing securities approved by the Secretary. Income from such securities shall be added to the principal of the Reclamation Fund.

(d) The revenues in the Reclamation Fund shall be available, with the approval of the Secretary, for the following purposes:

(1) to compensate promptly any person or entity, public or private, for any damages caused by oil and gas exploration, development and production activities on or in the vicinity of the Coastal Plain;

(2) to reclaim any area of the Coastal Plain not reclaimed in accordance with the standard set forth in section 402 of this Act, by the operator or the holder of a lease or leases;

(3) up to $5,000,000.00 annually to reclaim and restore any area of the Arctic National Wildlife Refuge or other North Slope Federal lands previously disturbed by development activities and not properly reclaimed and restored by the party conducting the development;

(4) up to $2,000,000.00 annually to the Director of the Fish and Wildlife Service to monitor and conduct research on fish and wildlife species which utilize the land and water resources of the Coastal Plain; and

(5) to reclaim at the conclusion of the period of exploration, development and production, any area of the Coastal Plain and related lands which have not been properly reclaimed by the operator or lease holder.

(e) The United States shall have legal recourse against any party or entity who is responsible for the reclamation of any area within the Coastal Plain, to recover any funds expended under paragraphs (1), (2), (3) and (5) of this subsection due to a failure by the responsible party to reclaim such area as required by this Act: *Provided*, That such right of recovery shall not be available against any Alaska Natives conducting traditional subsistence use activities. Any funds so recovered shall be deposited in the Reclamation Fund.

(f) Any moneys remaining in the Reclamation Fund fifty years after the period of active oil and gas exploration, development, production and reclamation has been concluded in the Coastal Plain shall be paid into the Migratory Bird Conservation Fund.

TITLE V.—DISPOSITION OF OIL AND GAS REVENUES

SEC. 501. DISTRIBUTION OF REVENUES.—Notwithstanding any other provision of law, all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, interest charges or other income derived from the leasing of oil and gas resources within the Arctic National Refuge, Alaska shall be distributed as follows:

(a) 50 per centum to the State of Alaska;

(b) 25 per centum deposited into the Land and Water Conservation Fund;

(c) 15 per centum to the Secretary to be used, under such terms and conditions as the Secretary may prescribe, for the acquisition, protection, creation, and restoration of wetlands in the United States; and

(d) 10 per centum to miscellaneous receipts in the Treasury.

SEC. 502. LAND AND WATER CONSERVATION FUND.—(a)(1) Moneys deposited into the Land and Water Conservation Fund ("the Fund") pursuant to section 501 shall be credited to a special account within the Fund. In addition beginning the first full fiscal year after funds are credited to the special account, there shall also be credited to the special account an amount equal to the average annual appropriation from the Fund for the five years preceding the date of the initial crediting of funds pursuant to section 501(b). These funds shall be derived from those moneys comprising the authorized but unappropriated balance of the Fund.

(2) Not more than 25 per centum of the funds deposited into the special account shall be available for State purposes pursuant to section 6 of the Land and Water Conservation Fund Act (16 U.S.C. Sec. 4601-8). The balance of the funds in the special account shall be available, without further appropriation, for Federal purposes as provided in section 7 of that Act (16 U.S.C. Sec. 4601-9) and shall be allocated in accordance with this section.

(b)(1) At the time of the submission of the President's budget, each Federal land managing agency eligible to receive moneys from the Fund shall provide the Committee on Appropriations of the United States House of Representatives and the United States Senate with a list, in descending order of priority, of land acquisition projects which have been authorized by law (hereinafter in this section referred to as the "priority list").

(2) The priority lists shall be prepared by the Directors of the Bureau of Land Management, National Park Service, Fish and Wildlife Service, Department of the Interior, and the Chief of the Forest Service, United States Department of Agriculture, and shall reflect their best professional judgment regarding the land acquisition priorities of such bureau or agency.

(3) In preparing such lists the following factors shall be considered: the amount of money anticipated to be made available in any one year; the availability of land appraisal and other information necessary to complete the acquisition in a timely manner; the potential adverse impacts on the park, wilderness, wildlife refuge or other such unit which might result if the acquisition is not undertaken; and such other factors as the land managers deem appropriate.

(c)(1) The Appropriations Committees shall allocate the funds from the special account in accordance with the priority lists submitted pursuant to this section unless such lists are specifically modified in appropriations Acts or reports accompanying such Acts.

(2) The Secretary of the Treasury shall notify the Appropriations Committees of the Congress on an annual basis as to the amounts available for allocation within the special account.

(3) In allocating funds from the special account among land managing agencies, the Appropriations Committee shall ensure that each agency receives a fair and equitable share in accordance with land acquisition needs, congressional directives, and historical patterns of distribution of the fund: *Provided*, That no agency shall receive more than fifty per centum of the funds available from the special account in any one year.

(d) In the event that the Appropriations Committees fail to allocate the funds from the special account, the Secretary of the Treasury is authorized and directed to make such funds directly available to the land managing agencies to be used solely for land acquisition projects on the respective priority lists in accordance with the following formula:

(1) 45 per centum to the Fish and Wildlife Service;

(2) 40 per centum to the National Park Service;

(3) 10 per centum to the Forest Service; and

(4) 5 per centum to the Bureau of Land Management.

SEC. 503. JUDICIAL REVIEW AND NON-SEVERABILITY.—(a) Notwithstanding the provisions of section 215 of this Act, any legal, including an action for declaratory judgment, to challenge the determination made in section 501(a) of this Act of the State of Alaska's share of oil and gas revenues shall be assigned for hearing and completed at the earliest possible date, shall, to the greatest extent practicable, take precedence over all other matters pending on the docket of the court at that time, and shall be expedited in every way by such court. Any such action shall be brought within ninety days of enactment of this Act in an appropriate United States District Court. Such action shall be barred unless a complaint is filed within the time specified. Any review of an interlocutory or final judgment, decree, or order of the United States District Court in such action may be had only upon direct appeal to the Supreme Court of the United States.

(b) Nothing in this section shall be construed to grant causes of action to any person or to waive any defenses which may be available to the United States.

(c) If any action is brought in accordance with subsection (a), no lease sale shall occur under section 203 of this Act until a final nonappealable decision has been issued in any such action.

(d) If the revenue sharing provision of section 501(a) of this Act is held invalid, the remainder of this Act shall be void.

SECTION-BY-SECTION ANALYSIS

Section 1 sets forth the short title of the Act.

TITLE I—STATEMENT OF PURPOSE AND DEFINITIONS

Section 101 sets forth the purpose and policy of the Act.

Section 102 sets forth definitions.

TITLE II—COASTAL PLAIN COMPETITIVE LEASING PROGRAM

Subsection 201(a) states that Congress directs the Secretary of the Interior and other appropriate Federal officers and agencies to take such actions as are necessary to establish and implement a competitive oil and gas leasing program that will result in an environmentally sound program for the exploration, development, and production of the oil and gas resources of the Coastal Plain.

Subsection 201(b) provides that this Act shall be the sole authority for leasing on the Coastal Plain.

Subsection 202(a) provides that the Secretary shall prescribe such rules and regulations as may be necessary to carry out the

purposes and provisions of the Act, including rules and regulations relating to protection of the environment of the Coastal Plain, as required by Title III of the Act. Such rules and regulations shall be promulgated within nine months after the date of enactment of the Act.

Subsection 202(b) provides that in the formulation and promulgation of rules and regulations under the Act, the Secretary shall give due consideration to the views of appropriate officials of the State of Alaska and the Government of Canada and shall consult with the Environmental Protection Agency and the Army Corps of Engineers in developing rules and regulations relating to the environment.

Subsection 202(c) provides that the Secretary shall periodically review and, if appropriate, revise the rules and regulations.

Subsection 203(a) provides that lands may be leased pursuant to the provisions of the Act to any person qualified to obtain a lease for deposits of oil and gas under the Mineral Leasing Act, as amended.

Subsection 203(b) provides that the Secretary shall, by regulation, establish procedures for certain specified activities.

Subsection 203(c) provides that the Secretary shall, by regulation, provide for lease sales of lands on the Coastal Plain. When lease sales are to be held, they shall occur after the nomination process. For the first lease sale, the Secretary shall, consistent with the requirements set forth in Title III of the Act, offer for lease those acres receiving the greatest number of nominations, but not to exceed a total of 300,000 acres. If the total acreage nominated is less than 300,000 acres, he shall include in such sale any other acreage which he believes has the highest resource potential, but in no event shall more than 300,000 acres of the Coastal Plain be offered in such sale. Thereafter, no more than 300,000 acres of the Coastal Plain may be leased in any one lease sale. The initial lease sale shall be held within eighteen months of the issuance of final regulations by the Secretary. The second lease sale shall be held thirty-six months after the initial sale, with additional sales conducted every twenth-four months thereafter so long as sufficient interest in development exists to warrant, in the Secretary's judgment, the conduct of such sales.

Subsection 203(d) provides that areas of the Coastal Plain deemed by the Secretary to be of particular environmental sensitivity may be excluded from leasing by the Secretary and that notice shall be provided to the specified appropriate Committees of the Congress. If the Secretary later determines that exploration, development, or production will result in no significant adverse effect on fish and wildlife, their habitat, and the environment, the Secretary shall, consistent with the provisions of subsection (c), offer such lands for leasing.

Subsection 204(a) provides that the Secretary is authorized to grant to the highest responsible qualified bidder by sealed competitive bid any lands to be leased on the Coastal Plain upon payment by the lessee of such bonus as may be accepted by the Secretary and of the royalty fixed in the lease, which shall be not less than twelve and one-half per centum in amount or value of the production removed or sold from the lease.

Subsection 204(b) provides that the Secretary shall not accept a bid for a lease if the Secretary finds, after notice and hearing, that the bidder is not meeting diligent development requirements on any other Federal mineral lease.

Section 205 sets forth lease terms and conditions. The provisions are self-explanatory.

Subsection 206(a) provides that all exploration activities pursuant to any lease issued or maintained under the Act shall be conducted in accordance with an approved exploration plan or an approved revision of such plan. The remaining provisions of the subsection are self-explanatory.

Subsection 206(b) provides that all development and production pursuant to a lease issued or maintained pursuant to the Act shall be conducted in accordance with an approved development and production plan. The remaining provisions of the subsection are self-explanatory.

Subsection 206(c) sets forth information to be included in exploration plans and development and production plans where applicable.

Subsection 206(d) sets forth procedures for plan approval. The provisions are self-explanatory.

Subsection 206(e) provides that if at any time while activities are being carried out under a plan approved under this section, the Secretary, on the basis of available information, determines that the continuation of any particular activity under the plan is likely to result in a significant adverse effect on fish or wildlife, their habit, or the environment, the Secretary, after consultation with the lessee shall: (1) make modifications to part or all of the plan as necessary or appropriate to avoid the significant adverse effect; (2) temporarily suspend part or all of the drilling or related activity under the plan for such time as the Secretary considers necessary or appropriate to avoid such significant adverse effect; or (3) terminate and cancel the plan where actions under paragraphs (1) or (2) will not avoid the significant adverse effect.

Subsection 207(a) sets forth the requirement for a performance bond. The provisions of the subsection are self-explanatory.

Subsection 207(b) sets forth the requirements relating to the amount of the performance bond. The provisions of the subsection are self-explanatory.

Subsection 207(c) provides that in the event that an approved exploration or development and production plan is revised, the Secretary may adjust the amount of the bond to conform to such modified plan.

Subsection 207(d) provides that the responsibility and liability of the lessee and its surety under the bond or security deposit shall continue until such time as the Secretary determines that there has been compliance with the terms and conditions of the lease and all applicable law.

Subsection 207(e) provides that within sixty days after determining that there has been compliance with the terms and conditions of the lease and all applicable laws, the Secretary shall notify the lessee that the period of liability under the bond or security deposit has been terminated.

Section 208 provides that the Secretary may direct or assent to the suspension of operations and production under any lease granted under the terms of this Act: (1) in the interest of conservation of the resource; (2) where there is no available system to transport the resource; or (3) where there is a threat of significant adverse effect upon fish or wildlife, their habitat or the environment. If a suspension is directed or assented to by the Secretary, any payment of rental prescribed by such lease shall be suspended during such period of suspension of operations and production, and the term of the lease shall be extended by adding any such suspension period thereto.

Subsection 209(a) sets forth the requirements relating to cancellation of nonproducing leases. The provisions of the subsection are self-explanatory.

Subsection 209(b) sets forth the requirements relating to cancellation of producing leases. The provisions of the subsection are self-explanatory.

Paragraph 209(c)(1) provides that in addition to the authority for lease cancellation provided for by subsections (a) and (b) of this section, any lease may be cancelled at any time, if the Secretary determines, after a hearing, that: (1) continued activity pursuant to such lease is likely to result in a significant adverse effect to fish or wildlife, their habitat, or the environment, or is likely to result in serious harm or damage to human life, to property, or to the national security or defense; and (2) the likelihood of a significant adverse effect will not disappear within a reasonable period of time or the threat of harm or damage will not disappear or decrease to any acceptable extent within a reasonable period of time.

Paragraph 209(c)(2) provides that cancellation under subsection (c) shall not occur unless and until operations under such lease or permit shall have been under suspension, or temporary prohibition, by the Secretary, with due extension of any lease term continuously for a period of five years, or for a lesser period upon request of the lessee.

Paragraph 209(c)(3) provides that cancellation under subsection (c) shall entitle the lessee to receive such compensation as the lessee demonstrates to the Secretary to be equal to the excess, if any, over the lessee's revenues from the lease (plus interest thereon from the date of receipt to the date or reimbursement) of all consideration paid for the lease and all direct expenditures made by the lessee after the date of issuance of such lease and in connection with exploration or development, or both, pursuant to the lease (plus interest on such consideration and such expenditures from date of payment to date of reimbursement).

Section 210 provides that no lease issued under the authority of the Act shall be assigned or sublet, except with the consent of the Secretary.

Section 211 provides that the lessee may, at the discretion of the Secretary, be permitted at any time to make written relinquishment of all rights under any lease issued pursuant to this Act. The Secretary shall accept the relinquishment by the lessee of any lease issued under this Act where there has not been surface disturbance on the lands covered by the lease.

Section 212 provides that the Secretary shall require to the greatest extent practicable, that lessees unite with each other in collectively adopting and operating under a cooperative or unit plan of development for operation of such pool, field, or like area, or any part thereof.

Section 213 sets forth requirements relating to oil and gas information. The provisions of the section are self-explanatory.

Subsection 214(a) provides that except as provided in section 215 of the Act, the district courts of the United States shall have jurisdiction of cases and controversies arising out of, or in connection with, any lease issued under the Act. Proceedings may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district in which the Coastal Plain is located.

Subsection 214(b) provides that at the request of the Secretary, the Attorney General or a United States Attorney shall insti-

tute a civil action in the district court of the United States for the district in which any defendant resides or may be found, or in the judicial district in which the Coastal Plain is located for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of the Act, any regulation or order issued under this Act, or any term of a lease issued pursuant to the Act.

Subsection 214(c) authorizes civil penalties of not more than $10,000 for each day of the continuance of a failure to comply with the Act, a lease term, or a regulation or order issued under the Act, after notice of such failure and expiration of any reasonable period allowed for corrective action. The remaining provisions of the subsection are self-explanatory.

Subsection 214(d) provides for criminal penalties of not more than $100,000 or imprisonment for not more than ten years, or both. The remaining provisions of the subsection are self-explanatory.

Subsection 214(e) sets forth provisions relating to the liability of corporate officers and agents for violations by a corporation or other entity. The provisions of the subsection are self-explanatory.

Subsection 214(f) is self-explanatory.

Subsection 214(g) provides that notwithstanding any other provision of law, if any area of the Coastal Plain has been or is being polluted by discharges of oil or hazardous or toxic substances from exploration, development, or production of oil or gas or related activities, conducted by, or on behalf of, a responsible party, and if the pollution has damaged or is damaging fish or wildlife, their habitat, or the environment of the Coastal Plain, or if such pollution is causing a substantial threat of damaging those fish or wildlife, their habitat, or the environment of the Coastal Plain, the responsible party shall be jointly, severally and strictly liable for the removal costs and damages specified in this subsection that arise directly out of or directly result from pollution that has damaged, or is damaging or is causing a substantial threat of damaging fish or wildlife, their habitat, or the environment of the Coastal Plain. The remaining provisions of the subsection are self-explanatory.

Section 215 provides for expedited judicial review. The provisions of the section are self-explanatory.

Section 216 is self-explanatory.

Section 217 sets forth provisions relating to property interests of the Arctic Slope Regional Corporation and the Kaktovik Inupiat Corporation.

TITLE III. COASTAL PLAIN DEVELOPMENT REQUIREMENTS

Section 301 provides that the Secretary shall administer the provisions of this Act through regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other provisions that ensure the oil and gas exploration, development, and production activities on the Coastal Plain will result in no significant adverse effect on fish and wildlife, their habitat, and the environment, and that shall require the application of the best commercially available technology for oil and gas exploration, development, and production, on all new exploration, development, and production operations, and whenever practicable, on existing operations.

Subsection 302(a) designates the Sadlerochit Spring area to be a Special Area. The remaining provisions of the subsection are self-explanatory.

Subsection 302(b) authorizes the Secretary to designate other areas of the Coastal Plain as Special Areas if the Secretary determines they are of unique character and interest so as to require such special protection. The remaining provisions of the subsection are self-explanatory.

Subsection 303(a) requires the Secretary, after providing for public notice and comment, to prepare and update periodically a plan to govern, guide, and direct the siting and construction of facilities for the exploration, development, production, and transportation of Coastal Plain oil and gas resources. The subsection sets forth objectives for the plan.

Subsection 303(b) provides that the plan shall supplement any comprehensive conservation plan prepared pursuant to the requirements of section 304(g) of ANILCA.

Section 304 provides that notwithstanding Title XI of ANILCA, the Secretary is authorized to grant under section 28 of the Mineral Leasing Act rights-of-way and easements across the Coastal Plain for the transportation of oil and gas under such terms and conditions as may be necessary so as not to result in a significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain. Such terms and conditions shall include requirements that facilities be sited or modified so as to avoid unnecessary duplication of roads and pipelines. The comprehensive oil and gas leasing and development regulations issued pursuant to the Act shall include provisions regarding the granting of rights-of-way across the Coastal Plain.

Subsection 305(a) provides that the Secretary shall diligently enforce all regulations, lease terms, conditions, restrictions, prohibitions, and stipulations promulgated pursuant to this Act.

Subsection 305(b) sets forth responsibilities of holders of a lease. The provisions of the section are self-explanatory.

Subsection 305(c) provides that the Secretary shall promulgate regulations to provide for onsite inspection of facilities. The provisions of the section are self-explanatory.

TITLE IV. LAND RECLAMATION AND RECLAMATION LIABILITY FUND

Section 401 provides that the holder of a lease or leases on lands within the Coastal Plain shall be fully responsible and liable for the reclamation of lands within the Coastal Plain and any other Federal lands adversely affected in connection with exploration, development, or transportation activities on a lease within the Coastal Plain. The holder of a lease shall also be responsible for conducting any land reclamation required as a result of activities conducted on the lease by any of the lease holder's subcontractors or agents. The holder of a lease may not delegate or convey, by contract or otherwise, this responsibility and liability to another party without the express written approval of the Secretary.

Section 402 provides that the standard to govern the reclamation of lands required to be reclaimed under the Act, following their temporary disturbance or upon the conclusion of their use or prolonged commercial production of oil and gas and related activities, shall be reclamation and restoration to a condition as closely approximating the original condition of such lands as is feasible using the best commercially-available technology. Reclamation of lands shall be conducted in a manner that will not itself impair or cause significant adverse effects on fish or wildlife, their habitat, or the environment.

Subsection 403(a) directs that within six months of a commercial discovery within the Coastal Plain, the Coastal Plain Liability and Reclamation Fund (the "Reclamation Fund") be established as a nonprofit corporate entity under the laws of Alaska that may sue and be sued in its own name. The remaining provisions of the subsection are self-explanatory.

Subsection 403(b) provides that the operator of the trans-Alaska pipeline shall collect from the owner of any commercially-produced crude oil or natural gas liquids from the Coastal Plain at the time and point where such crude oil first enters the trans-Alaska pipeline a fee of five cents per barrel. The collection of the fee shall cease when $50,000,000 has been accumulated in the Reclamation Fund, and it shall be resumed at any time that the accumulation of revenue in the Reclamation Fund falls below $45,000,000.

Subsection 403(c) provides that all revenues collected under subsection (b) shall be paid into the Reclamation Fund. The remaining provisions of the subsection are self-explanatory.

Subsection 403(d) provides that the revenues in the Reclamation Fund shall be available, with the approval of the Secretary, for certain designated purposes.

Subsection 403(e) provides that the United States shall have legal recourse against any party or entity who is responsible for the reclamation of any area within the Coastal Plain, to recover certain funds expended due to a failure by the responsible party to reclaim such area as required by this Act: *Provided,* That such right of recovery shall not be available against any Alaska Natives conducting traditional subsistence use activities. Any funds so recovered shall be deposited in the Reclamation Fund.

Subsection 403(f) provides that any moneys remaining in the Reclamation Fund fifty years after the period of active oil and gas exploration, development, production and reclamation has been concluded in the Coastal Plain shall be paid into the Migratory Bird Conservation Fund.

TITLE V. DISPOSITION OF OIL AND GAS REVENUES

Section 501 provides that notwithstanding any other provision of law, all revenues received from competitive bids, sales, bonuses, royalties, rents, fees, interest charges or other income derived from the leasing of oil and gas resources within the Arctic National Refuge, Alaska shall be distributed as follows: (a) fifty per centum to the State of Alaska; (b) twenty-five per centum deposited into the Land and Water Conservation Fund; (c) fifteen per centum to the Secretary to be used for the acquisition, protection, creation and restoration of wetlands; and (d) ten per centum to the U.S. Treasury.

Subsection 502(a) establishes a special account within the Land and Water Conservation Fund ("the Fund"). The remaining provisions of the subsection are self-explanatory.

Subsection 502(b) provides that at the time of the submission of the President's budget, each Federal land managing agency eligible to receive moneys from the Fund shall provide the Committee on Appropriations of the United States House of Representatives and the United States Senate with a list, in descending order of priority, of land acquisition projects which have been authorized (the "priority list"). The subsection sets forth requirements relating to the priority lists and factors to be considered in preparing such lists.

Subsection 502(c) provides that the Appropriations Committees shall allocate the funds from the special account in accordance with the priority lists submitted pursuant to this section unless such lists are specifically modified in appropriations Acts or reports accompanying such Acts. No agency shall receive more than fifty per centum of the funds available from the special account in any one year. The remaining provisions in the subsection are self-explanatory.

Section 502(d) provides that in the event that the Appropriations Committees fail to allocate the funds from the special account, the Secretary of the Treasury is authorized and directed to make such funds directly available to the land managing agencies to be used solely for land acquisition projects on the respective priority lists in accordance with the following formula: (1) forty-five per centum to the Fish and Wildlife Service; (2) forty per centum to the National Park Service; (3) ten per centum to the Forest Service; and (4) five per centum to the Bureau of Land Management.

Subsection 503(a) provides that any legal action, including an action for declaratory judgment, to challenge the determination made in section 501(a) of this Act of the State of Alaska's share of oil and gas revenues shall be expedited in every way by the court. Any such action shall be brought within ninety days of enactment of this Act in an appropriate United States District Court, or such action shall be barred. Any review of an interlocutory or final judgment, decree, or order of the United States District Court in such action may be had only upon direct appeal to the Supreme Court of the United States.

Subsection 503(b) is self-explanatory.

Subsection 503(c) provides that if any action is brought in accordance with subsection (a), no lease sale shall occur under section 203 of the Act until a final nonappealable decision has been issued in any such action.

Subsection 503(d) provides that if the revenue sharing provision of section 501(a) of the Act is held invalid, the remainder of the Act shall be void.●

By Mr. DODD:

S. 407. A bill to require the Consumer Product Safety Commission to require the labeling of certain toys; to the Committee on Commerce, Science, and Transportation.

TOY SAFETY AND CHILD PROTECTION ACT

● Mr. DODD. Mr. President, I rise today to introduce the Toy Safety and Child Protection Act, which will significantly increase the safety of toys in America. The legislation sponsored by my friend and colleague, SAM GEJDENSON in the House, will require an explicit Consumer Product Safety Commission warning label on toys with small parts intended for children over age 3 years. The label will state the minimum age of children for which the toy is appropriate, a description of the toy's harmful properties, and the potential consequences if used by children below the minimum age. Absent this critical information, buying a toy often involves dangerous guesswork. Soon parents will be provided the basis from which to make wise consumer choices appropriate to their child's age, level of maturity, and safety awareness.

The need for this legislation is clear: in 1985 alone, small toys or toy parts were responsible for 18 suffocation deaths and over 12,000 related injuries. Next to riding toys, the second largest category of toy-related injuries involved the ingestion or aspiration of small toys or parts of toys.

The Consumer Product Safety Commission recognized the danger of toys with small parts when it prohibited toy manufacturers from making such toys designed for children under the age of 3. However, the CPSC standard only requires toys with small parts to be labeled "not recommended for children under 3 years of age," a clearly inadequate warning for parents. Without an additional statement that the toy contains small parts, parents may perceive such restrictions as relating to their child's cognitive and motor abilities, and certainly, their precocious 2-year-old can handle it.

I am introducing this legislation because parents have a right to know what hazardous potential a toy poses their child. Deaths due to toys with small parts are preventable and the first line of defense is knowing the risks. If the life of one child is saved by a proper warning label then it will be worth the effort.

Mr. President, I ask unanimous consent that this bill be printed in full text in today's RECORD.

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

S. 407

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 "Toy Safety and Child Protection Act".

SEC. 2. LABELING REQUIREMENT.

(a) DEFINITION.—Section 2 of the Federal Hazardous Substance Act (15 U.S.C. 1261(p)) is amended in the matter following paragraph (2)—

(1) by inserting "(A)" after "also includes"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof "; (B) any toy (intended for use by children over the age of 3) that contains small parts if such toy is not labeled in accordance with the provisions of section 22.".

(b) REQUIREMENTS.—The Federal Hazardous Substance Act (15 U.S.C. 1261 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 22. CHILDREN'S TOYS.

"(a) RULE.—

"(1) IN GENERAL.—The Consumer Product Safety Commission shall issue a consumer product safety standard for any toy for children which—

"(A) is manufactured for sale, offered for sale, distributed in commerce, or imported into the United States, and

"(B) which includes a small part, as defined by the Commission,

to require that the packaging of such toy and any descriptive materials which accompany such toy contain the cautionary label described in paragraph (2).

"(2) LABEL.—The cautionary label required under paragraph (1) for a toy shall—

"(A) state the age of children for which such toy is not intended, and

"(B) contain a description, with respect to children within the age range for which such toy is not intended, of any dangerous property of such toy, and the hazardous consequences which can result from any such dangerous property.

"(3) STANDARD.—No later than January 1, 1990, the Commission shall establish the consumer product safety standard referred to in paragraph (1) and rules implementing the requirements of the standard.

"(b) LABELING REQUIREMENTS.—All labeling required under a standard issued under subsection (a) for a toy shall—

"(1) be prominently and conspicuously displayed on the packaging of the toy and on any descriptive materials which accompany the toy,

"(2) be visible, noticeable, and in the English language, and

"(3) include the word "WARNING" in capital letters.

"(c) ENFORCEMENT.—The Commission may use any remedy available to it under this Act to enforce the requirements of the standard issued under subsection (a).".

SEC. 3. EFFECTIVE DATE.

Section 2 of this Act shall apply with respect to toys that are manufactured after the date of the enactment of this Act.●

By Ms. MIKULSKI (for herself, Mr. NUNN, Mr. ADAMS, Mr. SANFORD, and Mr. MATSUNAGA):

S. 408. A bill to establish a corporation to administer a national volunteer service program; to the Committee on Labor and Human Resources.

NATIONAL COMMUNITY SERVICE ACT

● Ms. MIKULSKI. Mr. President, I am introducing today the National Community Service Act of 1989, a bill to institute a voluntary national service. Cosponsoring this bill are Senators NUNN, ADAMS, SANFORD, and MATSUNAGA.

National service is an idea whose time has come. It appeals to the best in us. It offers the opportunity for volunteers to make an investment, through their own sweat equity, in themselves and their communities. It is a social invention that can keep the door to the American dream—education and home ownership—open to all Americans.

My bill calls for part time, neighborhood-based voluntary community service, modeled after the National Guard. Volunteers would serve 2 weekends a month and 2 weeks a year, for 3 to 6 years, in return for a $3,000 voucher for every year served, to be used for education or first home ownership. Volunteers would work in their own communities, through existing programs, such as Meals on Wheels or volunteer firefighters, and the bulk of program administration would be done by the States.

My proposal will give volunteers the option of weekend community service,

in their own neighborhoods. Why do we need national service? Because our young people are losing touch with values of community service. The habits of the heart that made our country great are being lost. At the same time, the skyrocketing cost of education and home ownership are pricing the American dream out of reach for many of our citizens. National service can help remedy both these problems.

One of the geniuses of America has been our inventions. And very often when we think of inventions, we think of high technology. We think of the space shuttle, or the microchip, or the pacemaker. But one of the other geniuses of America has been our social inventions. And the social inventions that we created to make sure that the people always had access to the American dream.

When immigrants came to this country, we came up with a new social invention called the night school—so that you didn't have to be rich, you didn't have to be prosperous, to get yourself through school. And the night school transformed this country.

At the end of World War II we came up with other social inventions. We came up with the GI bill of rights, saying that through the obligations you had through military services, and the time that you spent in defending America, the blessings of America should be yours. And we're going to give you the good guy bonuses for being a GI.

The other social invention was the community college. To give the people the opportunity to go to college in their own neighborhood, day or night, a modest invention. To get on with their job and their family, and then if they cared to, to finish their 4-year program through a night school opportunity.

Those were the social inventions that made sure this country and the people in it always had access to the American dream. Once again, now as we move to the 21st century, the question of access to the American dream lies before us. The ability to afford a college education, or postsecondary education of any nature, as well as home ownership is slipping away from many Americans.

I've held town hall meetings with kids in high school. The No. 1 question on their mind is: How are they going to fund postsecondary education? They know that whether it's a vocational-technical school or college, that the financial burden they will have will often be difficult to pay off. And that their first mortgage is really their tuition loans.

We need to make sure that college, vocational or technical training, or home ownership is available to all. Linking national service to an opportunity to get a public benefit. It makes sure that young people could make an investment through their own sweat equity in themselves and in their communities. It links a public benefit with public service.

National service is as old as our country. And I think that now we're going to renew it in a very special way. I like it too, because I'm a social worker. And I truly believe that I'm a better U.S. Senator because I worked in the streets and neighborhoods of Baltimore. I was a foster care worker. I was a residential care worker. I worked with the elderly. I worked with those in drug abuse. I got out and made home visits. I didn't only rely on think tanks or memos. And in fact I rely on them less now because I was a social worker.

I feel that what transformed me is not so much what I did for the poor, but what the poor taught me. That courage, character, competency, aspiration is not limited to a single class, or a single gender or a particular kind of neighborhood. It's throughout our country. And what people need are opportunities.

I hope that these new citizen activists, citizen soldiers, who when it's all said and done, waged war against drugs, illiteracy, or pollution will look back with fondness on this experience—and know that the pursuit of personal advancement need not be in conflict with the advancement of social progress. I think that these citizen volunteers will have their hearts touched as young people. And later on they'll touch American society in a very unique and special way because of National Service.

What do I like about this bill? Well, first of all it meets basic American needs. As we go into the 21st century we need to make sure we provide two things. One, access to the American dream, the ability to afford higher education, and the ability to afford a home. And at the same time as we go into the 21st century we know we are facing a work force shortage, demography is destiny. They'll be not only a shrinking pool of workers but a shrinking pool of volunteers to be to be scout leader, volunteer firefighters, men and women in the Coast Guard Auxiliary or the Civil Air Patrol.

We need to make sure that we have our volunteers. Also we go into the 21st century, I believe we need to kindle what DeToqueville called the habits of the heart. That which makes America great was not only its legislative framework or its constitution but it was the way neighbor was always committed to helping neighbor.

This legislation really combines three things in our society. One, it recognizes aspiration—that in our society everybody should have the opportunity to become all that they can be and that barriers to self-fulfillment and personal excellence should not be based of ones economic status. You should be able to be what you want to be or own a home not because of the social class you're born in and that that social class is really a freeze frame for the rest of your life.

It also says that you can't get something for nothing. It recognizes perspiration, that there has to be sweat equity, that if we are going to provide a public benefit there needs to be a corollary action and at the same time while you're aspiring and perspiring we hope that you are inspired, that you're inspired in order to help neighbor help neighbor.

It is our hope that when they are out there doing the volunteer service maybe for the first time in their life, young people will be asked to do something. It is an absolute shock to me that in this last decade nobody has been asked to do anything, including, pick-it-up-yourself and maybe what we need to do is see where people can develop this sense of obligation.

When my great-grandmother came to this country, she had no guarantees, the only thing that was guaranteed to her was opportunity and what we're talking about here through the idea of national community service, is an opportunty structure which through your own aspiration and perspiration you will be able to achieve the American dream.

Not everyone can go away nor everyone should go away for full-time service. We are familar with the fact that our hi-tech graduates particularly in science and engineering must move immediately into their field. We are also aware that there are many graduates, some who for example are single mothers, would be best if they did not go away but stayed there in their own community.

What national service offers them is the opportunity to perform a public service to get a public benefit. What we have here is a new social invention. Not necessarily a new social program. And I think that's a very important concept to keep in mind. We're not talking about a big blotted bureaucracy that uses more money to keep itself going than to keep the country humming.

It would mean that wonderful young man or woman who graduated from Johns Hopkins University in chemical engineering could go right into his or her field. But they could also work on weekends organizing a Saturday scholar program for kids or maybe being the volunteer that organizes the science fair for our children.

But we also need them as volunteer firefighters and we need them in a variety of other ways working through, I believe, nonprofit organizations. As a social worker I always knew that it was through the nonprofit organization—Family and Children Society,

the United Fund—that we had our structure for volunteers. We don't need to invent bureaucracy, we don't need to invent structure. We need to make sure we provide access to the American dream and rekindle the habits of the heart in our young people. And that's what I think this idea is all about.

You can't force someone to have an attitude change. But how do we learn and how do we develop ourselves best? It's really by experience. It's hands on experience. Very few people's lives have been changed by a memo that they've read. Most people's lives have been changed by hands on experience. A personal relationship with another human being is usually the way to do this.

I can tell you why I was a volunteer. I worked with a Catholic priest to start a drug addiction program in a neighborhood that didn't have any. I went into a prison, to work with women under a city jail, to help them plan for release, because there were no social workers there. I will tell you, this Catholic young girl meeting in a city jail with prostitutes and shoplifters and so on, had not only her eyes open. But had her heart open and her mind open. I was changed because of what I did. And the volunteers who serve in the National Community Service Program will also have their lives changed.

Mr. President, I ask unanimous consent that the text of the bill and an outline 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. 408

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 "National Community Service Act of 1989".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

SEC. 3. PURPOSES.

The purpose of this Act is—

(1) to promote community service and civic responsibility by providing opportunities for individuals to serve in the community;

(2) to provide an alternative for young people to reduce student debt or save for a downpayment on a first home; and

(3) to enhance community and neighborhood loyalty and volunteer camaraderie by serving as part of a National Community Service Team.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) APPLICANT.—The term "applicant" means an applicant for a volunteer position in the Program.

(2) BOARD.—The term "Board" means the Board of Directors of the Corporation.

(3) CORPORATION.—The term "Corporation" means the Corporation for National Community Service established under title II.

(4) ELIGIBLE ORGANIZATION.—The term "eligible organization" means—

(A) an organization that administers a Federal, State, or local government program that primarily utilizes volunteers, such as a State conservation corps; or

(B) a private organization.

(5) FIRST HOME.—The term "first home" means the first principal place of residence that an individual purchases.

(6) PROGRAM.—The term "Program" means the National Community Service Program established under this Act.

(7) STATE ADMINISTRATOR.—The term "State Administrator" means the individual designated by the Governor to be the chief administrator of the Program in that State.

(8) VOLUNTEER.—The term "volunteer" means an individual who is participating in the Program.

TITLE I—ESTABLISHMENT AND ADMINISTRATION OF THE NATIONAL COMMUNITY SERVICE CORPORATION

SEC. 101. ESTABLISHMENT.

There is established the National Community Service Program.

SEC. 102. ELIGIBILITY.

(a) IN GENERAL.—An individual may volunteer for service with the Program if—

(1) such individual is fit for service as determined by the Corporation, in accordance with subsection (b); and

(2) adequate funds are available for the enrollment of such individual in the Program, in accordance with subsection (c).

(b) FITNESS.—

(1) IN GENERAL.—An individual shall be considered fit for service under subsection (a)(1) if such individual is willing and able to serve in the Program and carry out the duties and responsibilities of a volunteer.

(2) ROLE OF THE CORPORATION.—The Corporation may establish rules and procedures to implement the standard established in paragraph (1).

(c) LIMIT ON NUMBER OF VOLUNTEERS.—

(1) IN GENERAL.—The Corporation shall accept applicants as volunteers up to the total number of positions authorized under section 306.

(2) SELECTION OF VOLUNTEERS.—The Corporation shall establish rules for deciding which volunteer applications to accept if there are more applications than volunteer positions available, based on factors such as—

(A) the fitness of an applicant for duty;

(B) availability of positions in the community of the applicant; and

(C) the date of receipt of the application.

SEC. 103. TERMS OF SERVICE.

(a) LENGTH OF SERVICE.—An individual volunteering for service with the Program shall agree to perform community service for at least 3 years but not more than 6 years.

(b) INDIVIDUAL DISCRETION.—Within the time limits prescribed in subsection (a), the length of service of the volunteer shall be up to the discretion of the volunteer, within the time limits prescribed in subsection (a).

(c) PARTIAL COMPLETION OF SERVICE.—If the Corporation releases a volunteer from completing a term of service in the Program for compelling personal circumstances shown by such volunteer, the Corporation may provide such volunteer with a portion of the financial assistance specified in section 105 corresponding to the quantity of the service obligation completed by such individual.

(d) TERMS OF SERVICE.—A volunteer performing community service described in subsection (a) shall serve for—

(1) 2 weekends a month and 2 weeks during the year; or

(2) an average of 9 hours per week.

(e) TRANSFER OF VOLUNTEER.—During the term of service of a volunteer as described in subsection (d), the State Administrator described in section 302(a) may transfer such volunteer between organizations or government agencies—

(1) located within the State that are identified under section 304; or

(2) located outside the State that are identified under section 304, with the permission of both State Administrators.

SEC. 104. METHOD OF ENLISTMENT.

(a) APPLICATION.—An individual interested in volunteering for the Program may apply to the Corporation.

(b) REVIEW OF APPLICATION.—The Corporation shall approve an application submitted under subsection (a) so long as the applicant meets the eligibility requirements established in section 102.

(c) REGISTRATION.—After the applicant described in subsection (a) applies to the Corporation and receives approval from the Corporation, the volunteer shall register in the State administrative office of the Program in the place of the residence of such volunteer for placement.

SEC. 105. COMPENSATION.

(a) VOUCHER.—The Corporation shall annually provide to each participant in the Program a non-transferable voucher that is equal in value to $3,000 for each year of service in the Program.

(b) USE OF VOUCHER.—Such voucher shall only be used for—

(1) payment of a federally-sponsored student loan;

(2) downpayment for a first home; or

(3) payment for the educational tuition, fees, room, and board of such participant, to be paid directly to an educational, technical, or vocational institution.

(c) EXCLUSION FROM GROSS INCOME.—For purposes of section 61 of the Internal Revenue Code of 1986, any compensation received under this section by a volunteer shall not be considered gross income.

SEC. 106. TRAINING.

(a) PROGRAM TRAINING.—

(1) IN GENERAL.—Each volunteer shall attend a 6-week national training session conducted by the Corporation.

(2) CONTENT OF TRAINING SESSION.—Each training session described in paragraph (1) shall—

(A) orient volunteers to the nature, philosophy, and purpose of the Program;

(B) build an ethic of community service; and

(C) train volunteers to effectively perform their assigned Program task by providing—

(i) general training in citizenship and civic and community service; and

(ii) specialized training for the particular volunteer position for which each volunteer has been selected.

(b) ADDITIONAL TRAINING.—Each State shall provide any additional training that a volunteer may receive on the community level.

(c) AGENCY OR ORGANIZATION TRAINING.—In addition to the training described in subsections (a) and (b), each volunteer shall receive training from the sponsoring government agency or organization in skills relevant to the work to be conducted.

SEC. 107. ADMINISTRATION OF THE PROGRAM.

The Corporation shall coordinate and administrate the Program.

TITLE II—ESTABLISHMENT AND ORGANIZATION OF THE CORPORATION

SEC. 201. ESTABLISHMENT OF THE CORPORATION; APPLICATION OF DISTRICT OF COLUMBIA NONPROFIT CORPORATION ACT.

(a) ESTABLISHMENT.—There is established a nonprofit corporation, to be known as the "Corporation for National Community Service", which shall not be considered an agency or establishment of the United States Government.

(b) APPLICATION OF DISTRICT OF COLUMBIA NONPROFIT CORPORATION ACT.—The Corporation shall be subject to this Act, and to the extent consistent with this Act, to the District of Columbia Nonprofit Corporation Act.

SEC. 202. BOARD OF DIRECTORS.

(a) APPOINTMENT.—

(1) ESTABLISHMENT OF BOARD OF DIRECTORS.—The Corporation shall have a Board of Directors consisting of 11 members appointed by the President, by and with the advice and consent of the Senate.

(2) POLITICAL PARTY.—No more than 6 members of the Board appointed by the President may be members of the same political party.

(3) NOMINATION.—

(A) HOUSE OF REPRESENTATIVES.—Three of the members of the Board shall be appointed from individuals nominated by the Speaker of the House of Representatives.

(B) SENATE.—Three of the members of the Board shall be appointed from individuals nominated by the majority leader of the Senate.

(b) QUALIFICATIONS.—The members of the Board—

(1) shall be selected from among citizens of the United States who are eminent in such fields as community service, education, civic affairs, business, or labor; and

(2) shall be selected so as to provide as nearly as practicable a broad representation of various regions of the United States, various professions and occupations, and a variety of talent and experience appropriate for the performance of the functions and responsibilities of the Corporation.

(c) INCORPORATION.—The members of the initial Board shall serve as incorporators and shall take whatever actions are necessary to incorporate the Corporation under the District of Columbia Nonprofit Corporation Act.

(d) TERM OF OFFICE.—The term of office of each member of the Board shall be 7 years, except that any member appointed to fill a vacancy, occurring prior to the expiration of the term for which the predecessor of such member was appointed, shall be appointed for the remainder of such term.

(e) CONSECUTIVE TERMS.—No member of the Board shall be eligible to serve more than 2 consecutive terms of 7 years each.

(f) VACANCY.—A vacancy in the Board shall not affect the powers of the Board and shall be filled in the same manner as the original appointment.

(g) ELECTION OF CHAIRPERSON AND VICE CHAIRPERSON.—Members of the Board shall annually elect—

(1) one of their members to be Chairperson; and

(2) elect one or more of their members as a Vice Chairperson.

(h) COMPENSATION OF BOARD MEMBERS.—

(1) CLASSIFICATION OF EMPLOYMENT.—A member of the Board shall not, by reason of such membership, be considered to be an officer or employee of the United States.

(2) COMPENSATION AND EXPENSES.—Except as provided in paragraphs (3) and (4), a member of the Board shall—

(A) while attending meetings of the Board or while engaged in duties related to such meetings or other activities of the Board, be entitled to receive compensation at the rate of $150 per day, including travel time; and

(B) while away from their homes or regular places of business, be allowed travel and actual, reasonable, and necessary expenses.

(3) LIMIT ON COMPENSATION.—No member of the Board shall receive compensation under paragraph (2) of more than $10,000 in any fiscal year.

(4) PROHIBITION ON ADDITIONAL PAY.—A member of the Board who is a full-time officer or employee of the United States shall receive no additional pay, allowances, or benefits by reason of membership.

SEC. 203. OFFICERS AND EMPLOYEES.

(a) OFFICERS OF THE BOARD.—The Corporation shall have a President, and such other officers and employees as may be named and appointed by the Board, for terms and at rates of compensation fixed by the Board.

(b) EXCEPTION FOR COMPENSATION.—No officer or employee of the Corporation referred to in subsection (a) may receive compensation at an annual rate of pay that exceeds the rate of basic pay payable from time to time for level I of the Executive Schedule under section 5312 of title 5, United States Code.

(c) LIMITATION ON COMPENSATION.—No officer or employee of the Corporation may receive any salary or other compensation from any source other than the Corporation for services performed for the Corporation.

(d) TERM OF EMPLOYMENT.—All officers and employees shall serve at the pleasure of the Board.

SEC. 204. NONPROFIT AND NONPOLITICAL NATURE OF THE CORPORATION.

(a) LIMITATIONS ON POWERS.—The Corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

(b) CORPORATION INCOME.—No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, employee, or any other individual except as salary or reasonable compensation for services.

(c) NONPOLITICAL NATURE OF CORPORATION.—The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.

SEC. 205. DUTIES OF THE CORPORATION.

(a) IN GENERAL.—The Corporation shall—

(1) oversee and manage the Program;

(2) provide eligibility standards for applicants to the Program, as described in section 102;

(3) receive and approve State plans;

(4) establish a procedure for issuing vouchers under section 105(a);

(5) promote and publicize the Program;

(6) determine whether each State fails to follow any aspect of the State plan and, if such failure occurs, to investigate and decide if such State plan should be redesigned or Federal funding should be withdrawn; and

(7) establish a procedure for examining the effect that the Program has on the availability and terms of employment of employees where such service is performed.

(b) RECORDS.—

(1) IN GENERAL.—The Corporation shall keep accurate and complete records of the activities and transactions of the Corporation.

(2) AVAILABILITY OF RECORDS.—Such records shall be made available for audit and examination by the Comptroller General of the United States or duly authorized representatives of the Comptroller General.

(c) APPLICATION OF THE ADMINISTRATIVE PROCEDURE ACT.—In carrying out duties under this Act, the Corporation shall be subject to subchapter II of chapter 5 of title V, United States Code, and chapter 7 of such title in the same manner as an agency under section 551(1) of such title.

TITLE III—PROVISION OF COMMUNITY SERVICES

SEC. 301. STATE ADMINISTRATIVE OFFICE.

The Governor of each State shall designate a State Administrator who shall administer and supervise the Program in the State.

SEC. 302. STATE PLAN.

(a) SUBMISSION FOR APPROVAL.—Each State Administrator shall submit a State plan to the Corporation.

(b) CONTENT OF THE PLAN.—Each State plan described in subsection (a) shall describe—

(1) the State administrative plan for the Program;

(2) the work assignments for volunteers;

(3) the format for training, supervising, and organizing volunteers;

(4) the plan for placing volunteers in teams or platoons;

(5) procedures for analyzing organizations and volunteers that may be eligible to receive volunteers under section 304, including consideration of—

(A) past performance in the Program or related activities;

(B) fiscal accountability; and

(C) ability to meet performance standards; and

(6) the State budget for the Program.

(c) RESUBMISSION OF PLAN.—The State plan shall be resubmitted each year for approval by the Corporation.

SEC. 303. DUTIES OF STATE OFFICE.

Each State office shall—

(1) identify eligible organizations for the placement of volunteers, as described in section 304;

(2) create a procedure for eligible organizations to apply for such volunteers, as described in paragraph (1);

(3) compile a listing of eligible organizations from which volunteers can select placements;

(4) help to match volunteers with eligible organizations, as described in paragraph (1);

(5) supervise volunteers who have been placed with eligible organizations, as described in paragraph (1);

(6) publicize the Program; and

(7) recruit volunteers.

SEC. 304. IDENTIFICATION OF ELIGIBLE AGENCIES AND ORGANIZATIONS.

When selecting eligible organizations for the placement of volunteers, each State Administrator shall give preference to agencies and organizations that involve—

(1) primarily existing programs;

(2) nonprofit organizations, such as the United Way;

(3) government-sponsored volunteer programs, such as State conservation corps; and

(4) programs that provide or develop services to benefit—

(A) young people, such as Big Brother/Big Sister;

(B) the elderly, such as Meals on Wheels or nursing home visitors;

(C) public safety, such as volunteer firefighters or emergency medical personnel;

(D) conservation, such as parks and reforestation; and

(E) programs to help others help themselves, such as home care, literacy training, and Habitat for Humanity.

SEC. 305. NONDISPLACEMENT OF WORKERS.

(a) IN GENERAL.—No work done by volunteers shall displace employed workers, including—

(1) reduction in hours of nonovertime work;

(2) wages; and

(3) other employment benefits.

(b) ELIGIBILITY.—No eligible organization may receive volunteers under section 304 if such agency or organization uses volunteers to displace employed workers.

(c) PREVENTION OF WORKER DISPLACEMENT.—In placing a volunteer with a eligible organization, the State Administrator shall take appropriate measures to ensure that such placement shall not result in—

(1) the displacement of any currently employed worker or position (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits), or result in the impairment of existing contracts for services or collective bargaining agreements;

(2) such volunteer filling a position with an eligible organization when—

(A) any other individual is on layoff for the same or any equivalent position with an eligible organization;

(B) the employer has terminated the employment of any regular employee or otherwise reduced the workforce, with the effect of filling the vacancy so created with such volunteer; or

(C) any infringement of the opportunities of any currently employed individual for promotion.

(d) ENFORCEMENT PROCEDURE.—

(1) ESTABLISHING PROCEDURE.—Each State shall establish and maintain a procedure for resolving complaints by regular employees or the representatives of such employees that the placement of a volunteer under this Act violates any of the prohibitions described in subsection (c).

(2) APPEAL.—A decision of the State under the procedure described in paragraph (1) may be appealed to the Corporation for investigation and such action as the Corporation may find necessary.

TITLE IV—MISCELLANEOUS

SEC. 401. AUTHORIZATION OF APPROPRIATION.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act for—

(1) fiscal year 1991, $250,000,000 for 50,000 participants;

(2) fiscal year 1992, $500,000,000 for 100,000 participants;

(3) fiscal year 1993, $1,000,000,000 for 200,000 participants; and

(4) fiscal year 1994, $2,000,000,000 for 400,000 participants.

(b) FEDERAL, STATE, AND PRIVATE SHARES.—

(1) FEDERAL SHARE.—Subject to the amount of funds made available under subsection (a) and to the other provisions of this subsection, the Corporation shall use such funds to pay the cost of carrying out this Act.

(2) STATE SHARE.—To be eligible to participate in the Program, a State shall pay the administrative costs incurred by the State in carrying out this Act (including the cost of State training provided under section 106(b)).

(3) OTHER CONTRIBUTIONS.—A State may accept money, equipment, personnel, training costs, and other contributions from private sector organizations and local governments to comply with paragraph (2).

(4) LIMITATION.—No eligible organization shall be ineligible to obtain the services of volunteers because of an inability to make the contributions described in paragraph (3).

SEC. 402. EFFECTIVE DATE.

This Act shall become effective on

OUTLINE OF NATIONAL COMMUNITY SERVICE ACT OF 1989

The National Community Service Act of 1989 promotes community service and civic responsibility. It is a program modeled after the National Guard to provide people an opportunity to do part-time volunteer work in their own communities.

Anyone capable of providing volunteer service, that is fit to serve, is eligible for National Community Service. Volunteers would serve as part of a team. National Community Service teams would work with existing or new volunteer programs which provide services for youth, the elderly, public safety, conservation, and other self-help organizations.

Volunteers in National Community Service would serve for two weekends each month and 2 weeks during the year, or an average of 9 hours per week. For each year of service, volunteers would receive a $3,000 voucher good for educational costs or the down payment on a first home. Each volunteer commits 3 years to 6 years of service.

The National Community Service program would be administered on the state level so that the program could be flexible enough to meet the special needs of local communities. The Governor of each state would designate a State Administrator to supervise the state program. A new independent federal corporation would monitor the overall development of the program.

The National Community Service Act would start in FY 1991 with 50,000 participants at a cost of $250 million. By FY 1994, the program would involve 400,000 participants at a cost of $2 billion.

The National Community Service program is unique because it would provide people an opportunity to serve their own community while pursuing a career, caring for a family, or attending school. It also would create a civic-minded way for young people to finance their education or a first home. The entire country would benefit from the hours of community service provided.●

By Mr. BOSCHWITZ:

S. 409. A bill to expand the availability of quality affordable child care; to the Committee on Finance.

CHILD CARE ASSISTANCE AND RESOURCES EXPANSION ACT

● Mr. BOSCHWITZ. Mr. President I rise today to introduce the Child Care Assistance and Resources Expansion Act of 1989.

There's an old saying, "the child is the father of the man." It recognizes that our childhood shapes what kind of adults we become. In our rapidly changing society it's more important than ever that we give our youth the kind of support they need to prepare for adult life.

During the past 30 years scores of women, especially mothers of young children, have entered the labor force. Today, 57 percent of all women with children under 6 work outside the home; in 1950, that figure was only 12 percent. Even more critical, more than half of all new mothers now return to work before their child reaches age 1.

Mr. President, we can no longer ignore the changes in the American labor force and the fact that many children are in need of safe, high-quality child-care. My bill, the Child Care Assistance and Resources Expansion Act of 1989—child care—is drafted to improve both the quantity and quality of child care services, keep Federal regulations at an absolute minimum, and be fiscally responsible.

I believe that some of the child care legislation that has been introduced has too much Federal presence. We have to recognize that each State has to have flexibility to meet their particular needs. My bill establishes a National Commission to draw up model standards as guidelines—not regulations—for the States and requires that each State submit a plan to the Secretary of Health and Human Services [HHS] on how they will license and regulate family and group-home child care.

A child care bill should be comprehensive in its approach. It should include both block grants for States and tax incentives for parents and providers. My bill makes the dependent care tax credit refundable for low-income

families, those below $20,000. I also provide an infant care tax credit to help a parent stay home with their newborn or newly adopted child for the first 30 months of its life.

My bill provides incentives for family providers to become licensed. It reimburses a family or group-home provider for an additional snack or meal if a child is in their care for more than eight hours. It provides tax credits for home improvements that providers need to become licensed, and that those who are already licensed need to expand or rehabilitate; we all know how tough children can be on a home. Additionally, my bill would expand the Library Services and Construction Act by providing grants for libraries to purchase and deliver children's books, videos, tapes, and toys to licensed family and group-home providers.

Mr. President, we hear a lot about the need for improved quality in child care, but more regulations from Washington won't give you quality. There are existing programs that are proven to increase the child care expertise of family providers and center workers—why invent the wheel again? My bill expands the funding for the National Credentialing Program and State equivalency programs, expands the scholarships for providers, and provides stipends for the advisers.

Finally, my bill urges Congress to appropriate the authorized $10 million for postsecondary institutions to assist economically disadvantaged students with their child care expenses and provides funds for elementary and secondary schools to provide before- and after-school child care programs.

Mr. President, child care is a need that will continue to grow as our Nation moves into the 21st century. It is an area in which the Federal Government needs to provide guidance and assistance. I urge my colleagues to examine my bill and join me in helping provide a safe and secure environment for our children. Mr. President, I ask unanimous consent that the full text of the bill and a section-by-section analysis be printed in the RECORD.

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

S. 409

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 "Child Care Assistance and Resources Expansion Act of 1989".

TITLE III—CHILD CARE GRANT PROGRAM AND NATIONAL COMMISSION

SUBTITLE A—CHILD CARE GRANT PROGRAM

SEC. 101. DEFINITIONS.

As used in this title:

(1) CHILD.—The term "child" means an individual who has not attained 13 years of age.

(2) ELIGIBLE PROVIDER.—The term "eligible provider" means—

(A) a unit of general local government;

(B) a local educational agency;

(C) a nonprofit organization, including any organization described in section 501 (c) or (d) of the Internal Revenue Code of 1986;

(D) a professional or employee association;

(E) a consortium of small businesses;

(F) an institution of higher education;

(G) a hospital or health facility;

(H) a family child care provider that would qualify for assistance under the Child Care Food Program established in section 17 of the National School Lunch Act (42 U.S.C. 1766); or

(I) an entity that the State determines is able and appropriate to carry out a project assisted under this subtitle.

(3) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965.

(4) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the same meaning given that term by section 198(10) of the Elementary and Secondary Education Act of 1965, or any successor statute defining that term for the purposes of Federal assistance to elementary and secondary education.

(5) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(6) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 102. AUTHORITY AND AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this subtitle, to make payments to States to pay for authorized activities under a State plan approved under section 104.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000,000 for each of the fiscal years 1990 through 1992 to carry out this subtitle.

SEC. 103. ALLOTMENTS.

(a) RESERVATIONS.—The Secretary shall reserve 1 percent of the amount appropriated for each fiscal year under section 102(b) for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs.

(b) STATE ALLOTMENT.—

(1) FORMULA.—From the remainder of the sums appropriated under section 102(b) for grants to States for each fiscal year, the Secretary shall allot to each State, an amount equal to the sum of—

(A) an amount which bears the same ratio to 50 percent of such remainder as the number of—

(i) individuals in such State who are single parents of children who have not attained 13 years of age; and

(ii) individuals in such State who are members of dual-earner families and who have children who have not attained 13 years of age,

bears to the total number of such individuals in all States, except that each State shall be allotted not less than one-half of 1 percent of such remainder for each fiscal year; and

(B) an amount which bears the same ratio to 50 percent of such remainder as the number of children who are receiving free or reduced price school lunches under the provisions of the National School Lunch Act (42 U.S.C. 1751 note) bears to the total number of such individuals in all States, except that each State shall be allotted not less than one-half of 1 percent of such remainder for each fiscal year.

(2) DEFINITION.—For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands and the Trust Territory of the Pacific Islands.

(c) RECENT DATA REQUIRED.—For the purpose of this section, the Secretary should use the most recent data available.

(d) REALLOTMENT.—

(1) IN GENERAL.—Any portion of the allotment of a State under subsection (b) that the Secretary determines is not required to carry out a State plan approved under section 106, in the period that the allotment is made available, should be reallotted by the Secretary to other States in proportion to the original allotment of such States.

(2) LIMITATION.—The amount that another State is entitled to under paragraph (1) shall be reduced to the extent that such amount exceeds the sum that the Secretary estimates will be used in that State to carry out a State plan approved under section 105 and the amount of such reductions shall be similarly reallotted among States in which the proportioned amount is not reduced.

(3) ORIGINAL ALLOTMENT.—Any amount reallotted to a State under this subsection shall be considered to be part of the original State allotment under subsection (b) for that year.

SEC. 104. AUTHORIZED ACTIVITIES.

Payments made under this subtitle to a State may be used for—

(1) the provision of child care services to low-income parents and to parents with moderate incomes, including the provision of such services with appropriate fee schedules;

(2) the establishment and operation of resource and referral centers to—

(A) identify existing child care services in the community;

(B) provide referral information about such services to parents;

(C) offer child care training seminars to providers and center employees;

(D) recruit providers;

(E) promote programs that would improve the quality and affordability of child care; and

(F) collect appropriate data concerning child care services and needs;

(3) the establishment of programs that would increase child care slots for infants, handicapped children, and minority children;

(4) the establishment and operation of neighborhood child care centers and after school child care programs;

(5) the establishment of programs that would recruit and train senior citizens to serve as child care workers;

(6) assistance to help eligible providers and family based child care providers to meet the licensing standards required by the State for furnishing child care services;

(7) the coordination of programs assisted under this subtitle with child care programs operated or assisted by the State and with Federally assisted child care programs, including Head Start programs, Federal assistance programs for education of disadvan-

taged children in the elementary schools of the State, preschool programs, and programs for handicapped children, designed to improve the operation of such program with respect to hours of operation for child care services; and

(8) the development and implementation of the licensing and certification requirements required under section 105(c)(8).

SEC. 105. STATE APPLICATION AND PLAN.

(a) APPLICATION.—To be eligible to receive assistance under this subtitle, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

(b) STATE PLAN REQUIRED.—The application of a State submitted under subsection (a) shall include an assurance that the State will comply with the requirements of this subtitle and a State plan that is designed to be implemented by the State using funds received under this subtitle.

(c) CONTENTS OF PLAN.—A plan submitted under this section shall—

(1) describe the State agency that will administer the programs for which assistance is sought under this subtitle;

(2) describe the authorized activities for which assistance is sought consistent with the provisions of section 104;

(3) provide assurances that the State will provide technical assistance to eligible providers;

(4) provide assurances that Federal funds made available under this subtitle for any fiscal year will be used to supplement, and to the extent practicable, to increase the level of funds that would otherwise, in the absence of such Federal funds, be made available from non-Federal sources for the purposes described in section 103, and in no case supplant such funds from non-Federal sources;

(5) provide assurances that the State will not expend more than 8 percent of the amount received in any fiscal year for administrative expenses;

(6) describe procedures the State will use for eligible providers to submit applications to the State in accordance with section 106, and for approval of applications by the State agency designated under paragraph (1), including appropriate procedures to assure that the State agency will not disapprove an application without proper notice and the opportunity for a hearing;

(7) provide assurances that—

(A) the State will establish accrediting and licensing standards for the purpose of this subtitle; and

(B) if standards established under subparagraph (A) differ from the existing accrediting and licensing standards of the State for the provision of child care services, that the State will provide training and other projects with assistance under this subtitle designed to permit the eligible provider to meet such newly established accrediting or licensing standards;

(8) provide assurances that, not later than January 1, 1992, the State will develop and begin implementing licensing or certification requirements that shall apply to all non-relative family-based and group home child care providers, and that not later than January 1, 1994, the State require that all eligible child care providers meet such licensing or certification requirements to receive assistance under this Act;

(9) provide such fiscal control and account procedures as may be necessary—

(A) to insure proper accounting of Federal funds paid to the State under this subtitle; and

(B) to ensure the verification of reports required under this subtitle; and

(10) provide such additional assurances that the Secretary may reasonably require.

(c) APPROVAL.—The Secretary shall approve State applications and plans submitted under this section that meet the requirements of this subtitle.

SEC. 106. APPLICATION FOR GRANTS BY ELIGIBLE PROVIDERS.

(a) APPLICATION.—In order to receive a grant from a State that receives funds under this subtitle, an eligible provider shall prepare and submit an application to the State that—

(1) describes the project for which assistance is sought;

(2) contains assurances that the eligible provider will use the funds furnished in accordance with requirements of this subtitle;

(3) provides assurances that appropriate fee schedules will be established in the case of any project in which child care services are furnished with assistance under this part and that such fee schedules will be based on the annual incomes of the participating families;

(4) provides assurances that procedures will be established for parental involvement in the operation of the project; and

(5) if necessary, the eligible provider will comply with the training and other requirements of section 105(b)(7).

(b) PRIORITY.—In making grants under this subtitle, a State should give priority to applications from eligible providers that significantly expand or improve the provision of child care services to children of parents with low incomes and parents with modest incomes.

SEC. 107. PAYMENTS.

(a) IN GENERAL.—

(1) AMOUNT OF PAYMENT.—Each State that—

(A) has an application and plan approved by the Secretary under section 105; and

(B) demonstrates to the satisfaction of the Secretary that it will provide from non-Federal sources the State share of the aggregate amount to be expended by the State under the State plan for the fiscal year for which it requests a grant;

shall receive a payment under this section for such fiscal year in an amount (not to exceed its allotment under section 103 for such fiscal year) equal to the Federal share of the aggregate amount to be expended by the State under the State plan for such fiscal year.

(2) FEDERAL SHARE.—The Federal share for each fiscal year shall be 80 percent.

(3) STATE SHARE.—The State share equals 100 percent minus the Federal share.

(4) LIMITATION.—A State may not require any private provider of child care services that receives or seeks funds made available under this Act to contribute in cash or in kind to the State contribution required by this subsection.

(b) METHOD OF PAYMENTS.—The Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 103 for any fiscal year may be expended by the State, in that fiscal year or in the succeeding fiscal year.

SEC. 108. EVALUATION.

(a) EVALUATIONS REQUIRED.—Each State agency designated under section 105(c)(1) shall—

(1) not less often than once every 2 fiscal years, conduct an evaluation of projects assisted under this subtitle, and make public the results of such evaluation; and

(2) inform eligible providers of the specific information that such State agency will need to conduct such evaluation.

(b) REPORT.—

(1) STATE REQUIREMENT.—Each State agency designated under section 105(c)(1) shall prepare and submit a report to the Secretary concerning the evaluations conducted under this subsection (a).

(2) REQUIREMENT OF SECRETARY.—The Secretary shall, as part of the annual report that is submitted to Congress by the Department of Health and Human Services, prepare and submit to the Congress a summary of the evaluations conducted under this section.

SUBTITLE B—NATIONAL COMMISSION ON CHILD CARE STANDARDS

SEC. 111. ESTABLISHMENT.

In order to improve the quality and affordability of child care services, the Secretary shall establish, not later than 60 days after the date of the enactment of this Act, a National Commission on Child Care Standards (hereinafter in this section referred to as the "Commission").

SEC. 112. MEMBERSHIP.

(a) IN GENERAL.—The Commission shall be composed of 16 members of which—

(1) 4 members shall be appointed by the President;

(2) 2 members shall be appointed by the majority leader of the Senate;

(3) 2 members shall be appointed by the minority leader of the Senate;

(4) 2 members shall be appointed by the Speaker of the House of Representatives;

(5) 2 members shall be appointed by the minority leader of the House of Representatives; and

(6) 4 members shall be appointed by the National Governor's Association.

(b) CHAIRPERSON.—The President shall appoint a chairperson from among the members of the Commission.

(c) VACANCIES.—A vacancy occurring on the Commission shall be filled in the same manner as that in which the original appointment was made.

(d) PERSONNEL, REIMBURSEMENT, AND OVERSIGHT.—

(1) PERSONNEL.—The Secretary shall make available to the Commission office facilities, personnel who are familiar with child development and with developing and implementing regulatory requirements, technical assistance, and funds as are necessary to enable the Commission to carry out effectively its functions.

(2) REIMBURSEMENT.—

(A) COMPENSATION.—Members of the Commission who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Commission or otherwise engaged in the business of the Commission (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(B) EXPENSES.—While away from their homes or regular places of business on the business of the Commission, 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 employed intermittently in the Government service.

(3) OVERSIGHT.—The Secretary shall ensure that the Committee is established and operated in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 113. FUNCTIONS OF COMMISSION.

The Commission shall—

(1) review Federal policies with respect to child care services and such other data as the Commission considers appropriate; and

(2) not later than 180 days after the date on which a majority of the members of the Committee are first appointed, submit to the Secretary proposed model standards that States could follow in regulating child care services, taking into account the different needs of infants, toddlers, preschool and school-age children and the differing needs of local communities

SEC. 114. STATE REPORT ON MODEL STANDARDS.

Not later than January 1, 1994, the chief executive officer of a State receiving assistance under this Act shall prepare and submit to the Secretary a report that describes to what extent the State has adopted the model standards proposed under section 113(2).

TITLE II—CHILD CARE FOOD PROGRAMS

SEC. 201. CHILD CARE FOOD PROGRAM.

(a) SUPPLEMENTS.—Section 17(f)(2)(B) of the National School Lunch Act (42 U.S.C. 1766(f)(2)(B)) is amended by striking out "one supplement" the first time that such phrase appears, and inserting in lieu thereof "two supplements or one supplement and three meals".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective on July 1, 1990.

TITLE III—CHILD CARE PROVIDER LIBRARY PROGRAM

SEC. 301. CHILD CARE PROVIDER LIBRARY PROGRAM.

(a) GRANT PROGRAM.—The Library Services and Construction Act (20 U.S.C. 351 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VII—CHILD CARE PROVIDER LIBRARY PROGRAM

"SEC. 701. STATE AND LOCAL LIBRARY GRANTS.

"(a) AUTHORITY.—The Secretary shall establish a program of making grants from sums appropriated under section 4(a)(6) to State and local public libraries for the purposes of enabling such libraries to purchase and deliver children's books, videos, tapes, and toys to licensed or certified family-based or group child-care providers.

"(b) APPLICATION.—In order to receive a grant under this title, a library shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require by rule.

"(c) USE OF FUNDS.—Funds received by a library under this section shall be used by such library to purchase and deliver to family-based or group child care providers (through the expanded use of bookmobiles) books, videos, tapes and toys for the benefit of children cared for in such settings.

"(d) SELECTION OF RECIPIENTS.—Recipients of grants under this section shall be selected on a competitive basis.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 4(a) of the Library Services and Construction Act (20 U.S.C. 351b(a)) is amended—

(1) in paragraph (4), by striking out "and" at the end thereof;

(2) in paragraph (6), by striking out the period at the end thereof and by inserting in lieu thereof ", and"; and

(3) by adding after paragraph (5), the following new paragraph:

"(6) for the purpose of making grants as provided in title VII, $12,500,000 for each of the fiscal years 1990 through 1992.".

TITLE IV—CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE PROGRAM

SEC. 401. CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE PROGRAM.

(a) ELIGIBLE INDIVIDUAL.—Section 604(1) of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10903(1)) is amended—

(1) by inserting "200 percent of" before "the poverty line"; and

(2) by inserting before the semicolon the following: ", or a candidate for the State equivalent of the Child Development Associate credential who meets the same income requirements".

(b) TRAINING OF CHILD CARE PROVIDERS.—Section 606 of such Act (42 U.S.C. 10905) is amended to read as follows:

"SEC. 606. CHILD CARE TRAINING ACTIVITIES.

"(a) AUTHORITY TO PROVIDE ASSISTANCE.—States that receive assistance under this title may use a portion of such assistance to provide grants to child care providers to enable such providers to conduct child care training activities.

"(b) STIPENDS.—Early childhood professionals who serve as local advisors to provide field assistance to individuals receiving scholarships or other assistance under this title shall receive a stipend for the provision of such services in the amount of $300.

"(c) CHILD CARE PROVIDER.—As used in this section the term 'child care provider' means—

"(1) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

"(A) is licensed or regulated under State law; and

"(B) satisfies—

"(i) the Federal requirements, except as provided in clause (iii); and

"(ii) the State and local requirements; applicable to the child care services it provides; or

"(2) a child care provider that is 18 years of age or older who provides child care services only to an eligible child who is, by affinity or consanguinity, the grandchild, niece, or nephew of such provider, if such provider complies with any State requirements that govern child care provided by relatives.

"(d) REGULATIONS.—The Secretary shall promulgate regulations to carry out this section.".

(c) AUTHORIZATION OF APPROPRIATIONS.—The Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10901 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated $5,000,000 for each of the fiscal years 1990 through 1992 for carrying out this title, of which not less than $2,000,000 shall be used in each fiscal year to provide grants for training services for family-based child care providers and child care center employees.".

TITLE V—CHILD CARE EDUCATIONAL PROVISIONS

SEC. 501. GRANT PROGRAM FOR LOCAL EDUCATIONAL ASSOCIATIONS.

(a) ESTABLISHMENT.—The Secretary of Education shall establish a program to makes grants to local educational agencies to enable such agencies to establish or enhance before or after school child care programs.

(b) APPLICATION.—To be eligible to receive a grant under this section a local educational agency shall submit an application to the Secretary of Education at such time, in such manner, and containing such information as the Secretary may require by rule.

(c) REQUIREMENTS.—Applications submitted under subsection (b) shall contain assurances that the applicant local educational agency shall use funds received under this section to establish or enhance school-based child care programs that—

(1) are conducted either before or after normal school hours;

(2) admit all kindergarten students into the program at appropriate times of the day;

(3) admit all students under the age of 12 into such programs if such students desire such services;

(4) require that directors of such child care programs be certified teachers and that assistant directors have at least a Child Development Associate certificate, or the equivalent thereof, and each such director and assistant director shall be at least 18 years old; and

(5) meet any other requirements determined appropriate by the Secretary of Education.

(d) REGULATIONS.—The Secretary of Education shall promulgate regulations necessary to carry out this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in each of the fiscal years 1990 through 1992, $50,000,000 to carry out this section.

SEC. 502. SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds that—

(1) postsecondary education is an increasingly important element in enhancing the productivity of the work force;

(2) the enrollment of students in colleges, junior colleges and technical institutes continues to increase rapidly;

(3) the most rapidly growing segment in such institutions consists of those students who are 25 years of age or older;

(4) postsecondary education must expand its services to meet the needs of the changing student population;

(5) a barrier to continuing education is the lack of affordable, accessible and quality child care;

(6) students are often economically disadvantaged and child care costs are an additional financial burden;

(7) postsecondary schools have limited resources for traditional student services and do not have additional funding for child care; and

(8) the 100th Congress recognized that such problems exist and authorized, but did not appropriate, $10,000,000 for postsecondary institutions to assist students with child care.

(b) SENSE OF CONGRESS.—It is the sense of Congress that $10,000,000 should be appropriated in fiscal year 1990 to carry out subpart 8 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070f).

TITLE VI—CHILD CARE TAX INCENTIVES

SEC. 601. ALLOWANCE OF CREDIT FOR EXPENDITURES FOR CERTAIN CHILD CARE HOMES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 43. CHILD CARE HOME CREDIT.

"(a) IN GENERAL.—For purposes of section 38, the child care home credit determined under this section for the taxable year shall be equal to the amount of the credit determined in accordance with subsection (b) with respect to so much of the qualified child care home expenditures of the taxpayer for such taxable year as does not exceed $9,000.

"(b) AMOUNT OF CREDIT.—

"If qualified child care home expenditures are:	The child care home credit is:
Not over $3,000	30% of such expenditures.
Over $3,000 but not over $6,000.	$900, plus 20% of the excess over $3,000.
Over $6,000 but not over $9,000.	$1,500, plus 10% of the excess over $6,000.

"(c) PRIOR EXPENDITURES BY TAXPAYER ON SAME HOME TAKEN INTO ACCOUNT.—If for any prior year a credit was allowed to the taxpayer under this section with respect to any qualified child care home, subsection (a) shall be applied for the taxable year with respect to such qualified child care home by taking into account the prior year expenditures.

"(d) DEFINITIONS.—

"(1) QUALIFIED CHILD CARE HOME EXPENDITURES.—The term 'qualified child care home expenditures' means any expenditure made by the taxpayer as required by the State or local government to acquire, construct, rehabilitate, or expand a qualified child care home .

"(2) QUALIFIED CHILD CARE HOME.—The term 'qualified child care home' means a home—

"(A) operated by the taxpayer for the care of enrollees,

"(B) located in the principal residence of the taxpayer, and

"(C) which meets the requirements of all applicable laws and regulations of the State or local government where it is located.

"(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) RECAPTURE OF CREDIT.—

"(1) IN GENERAL.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified child care home, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted from the nonallowance of the credit described under subsection (a).

"(2) APPLICABLE RECAPTURE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Year 1	100
Year 2	66⅔
Year 3	33⅓
Years 4 and thereafter	0.

"(B) BEGINNING OF RECAPTURE PERIOD.—For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified child care home is placed into service by the taxpayer.

"(3) RECAPTURE EVENT DEFINED.—For purposes of this subsection, the term 'recapture event' means—

"(A) CESSATION OF OPERATION.—The cessation of the operation of the home as a qualified child care home.

"(B) CHANGE IN OWNERSHIP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the disposition of a person's interest in a qualified child care home with respect to which the credit described in subsection (a) was allowable.

"(ii) AGREEMENT TO ASSUME CREDIT ALLOWANCE AND RECAPTURE LIABILITY.—Clause (i) shall not apply if the person acquiring such interest in the home agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the home shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) SPECIAL RULES.—

"(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) NO RECAPTURE BY REASON OF CASUALTY LOSS.—The increase in tax under this subsection shall not apply to a cessation of operation of the home as a qualified child care home by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.".

(b) CONFORMING AMENDMENTS.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking out "plus" at the end of paragraph (4),

(B) by striking out the period at the end of paragraph (5), and inserting in lieu thereof a comma and "plus", and

(C) by adding at the end thereof the following new paragraph:

"(6) the child care home credit determined under section 43.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 43. Child care home credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 602. PHASE OUT OF CHILD CARE CREDIT.

(a) IN GENERAL.—Paragraph (2) of section 21(a) of the Internal Revenue Code of 1986 (relating to expenses for household and dependent care services necessary for gainful employment) is amended to read as follows:

"(2) APPLICABLE PERCENTAGE DEFINED.—For purposes of paragraph (1), the term 'applicable percentage' means 30 percent reduced (but not below 0 percent) by the sum of—

"(A) 1 percentage point (but no more than a total of 10 percentage points) for each $2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $10,000, plus

"(B) either—

"(i) in the case of an individual who maintains a household which includes 1 qualifying individual (as defined under subsection (b)(1)(A)), 2 percentage points for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $35,000, or

"(ii) in the case of an individual who maintains a household which includes 2 or more qualifying individuals (as defined under subsection (b)(1)(A)), 2 percentage points for each $1,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $45,000.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 603. REFUNDABLE DEPENDENT CARE SERVICES TAX CREDIT.

(a) IN GENERAL.—Part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to credits against tax) is amended—

(1) by redesignating section 35 as section 36, and

(2) by redesignating section 21 as section 35.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 35(a) of the Internal Revenue Code of 1986 (relating to allowance of credit), as redesignated by subsection (a), is amended by striking out "chapter" and inserting in lieu thereof "subtitle".

(2) Section 129 of such Code (relating to dependent care assistance programs) is amended—

(A) by striking out "section 21(d)(2)" in subsection (b)(2) and inserting in lieu thereof "section 35(d)(2)", and

(B) by striking out "section 21(b)(2)" in subsection (e)(1) and inserting in lieu thereof "section 35(b)(2)".

(3) Subsection (e) of section 213 of such Code (relating to deduction for medical, dental, etc., expenses) is amended by striking out "section 21" and inserting in lieu thereof "section 35".

(4) Paragraph (4) of section 6201(a) of such Code (relating to assessment authority) is amended—

(A) by striking out "or section 32 (relating to earned income)" and inserting in lieu thereof ", section 32 (relating to earned income), or section 35 (relating to dependent care services credit)", and

(B) by striking out the caption and inserting in lieu thereof the following:

"(4) OVERSTATEMENT OF CERTAIN CREDITS.".

(5) Section 6513 of such Code (relating to time return deemed filed and tax considered paid) is amended by adding at the end thereof the following new subsection:

"(f) TIME TAX IS CONSIDERED PAID FOR DEPENDENT CARE SERVICES CREDIT.—For purposes of section 6511, the taxpayer shall be considered as paying an amount of tax on the last day prescribed for payment of the tax (determined without regard to any extension of time and without regard to any election to pay the tax in installments)

equal to so much of the credit allowed by section 35 (relating to dependent care services credit) as is treated under section 6401(b) as an overpayment of tax.".

(6) Subsection (d) of section 6611 of such Code is amended by striking out the caption and inserting in lieu thereof the following:

"(d) ADVANCE PAYMENT OF TAX, PAYMENT OF ESTIMATED TAX, CREDIT FOR INCOME TAX WITHHOLDING, AND DEPENDENT CARE SERVICES CREDIT.—".

(c) COORDINATION WITH WITHHOLDING AND ESTIMATED TAX.—Section 35 of the Internal Revenue Code of 1986, as redesignated by subsection (a), is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) COORDINATION WITH WITHHOLDING AND ESTIMATED TAX.—The Secretary shall prescribe such tables or other simplified procedures as may be necessary to ensure that the amount of the credit allowable under this section—

"(1) may be taken into account under section 3042(m)(2) in computing a taxpayer's withholding allowances, and

"(2) may be taken into account under section 6654(f) in computing the credits allowed against the tax imposed by this chapter.".

(d) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking out the item relating to section 21.

(2) The table of sections for subpart C of such part IV is amended by striking out the item relating to section 35 and inserting in lieu thereof the following new items:

"Sec. 35. Expenses for household and dependent care services necessary for gainful employment.

"Sec. 36. Overpayments of tax.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

SEC. 604. INFANT CARE TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 36, as redesignated by section 603, as section 37 and by inserting after section 35 the following new section:

"SEC. 36. INFANT CARE TAX CREDIT.

"(a) GENERAL RULE.—In the case of an eligible individual who maintains a household which includes as a member 1 or more qualified dependents, there is allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the infant care tax credit amount for the taxable year.

"(b) INFANT CARE TAX CREDIT AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Subject to paragraph (3), the infant care tax credit amount for the taxable year is an amount equal to the sum of the applicable credit percentages of so much of the taxpayer's earned income (as defined in section 32(c)(2)) for such year as does not exceed $7,407.

"(2) APPLICABLE CREDIT PERCENTAGES.—For purposes of paragraph (1), the applicable credit percentage is—

"(A) 27 percent for a taxpayer with 1 qualified dependent, and

"(B) 40 percent for a taxpayer with 2 or more qualified dependents.

"(3) PHASEOUT OF CREDIT.—In the case of a taxpayer whose gross income for the taxable year exceeds $10,000, the amount determined under paragraph (1) shall be reduced (but not below zero) by an amount equal to the sum of—

"(A) $100 (but not more than a total of $1,000) for each $1,000 (or fraction thereof) by which the taxpayer's gross income for the taxable year exceeds $10,000, plus

"(B) $500 for each $1,000 (or fraction thereof) by which the taxpayer's gross income for the taxable year exceeds $20,000.

"(c) QUALIFIED DEPENDENT.—For purposes of this section, the term 'qualified dependent' means any individual—

"(1) who is a dependent (as defined in section 152) of the taxpayer,

"(2) who is a child (as defined in section 151(c)(3)) of the taxpayer, and

"(3) who has not attained age 31 months at the close of the calendar year in which the taxable year of the taxpayer begins.

"(d) ELIGIBLE INDIVIDUAL.—For purposes of this section, the term 'eligible individual' means any taxpayer—

"(1) who has the same place of abode as the qualified dependent, and

"(2) performs no services for remuneration.

In the case of a joint return, paragraphs (1) and (2) shall be treated as met if 1 of the spouses satisfies the requirements of both such paragraphs.

"(e) SPECIAL RULES.—Rules similar to the rules of paragraphs (1) through (5) of section 35(e) shall apply for purposes of this section.

"(f) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.

"(g) AMOUNT OF CREDIT TO BE DETERMINED UNDER TABLES.—

"(1) IN GENERAL.—The amount of the credit allowed by this section shall be determined under tables prescribed by the Secretary.

"(2) REQUIREMENTS FOR TABLES.—The tables prescribed under paragraph (1) shall reflect the provisions of subsections (a) and (b) and shall have income brackets of not greater than $50 each—

"(A) for earned income between $0 and $7,407, and

"(B) for gross income between the dollar amount at which the phaseout begins under subsection (b)(3) and the amount of gross income at which the credit is phased out under subsection (b)(3).

"(h) COORDINATION WITH ADVANCE PAYMENTS OF INFANT CARE TAX CREDIT.—

"(1) RECAPTURE OF EXCESS ADVANCE PAYMENTS.—If any payment is made to the individual by an employer under section 3507A during any calendar year, then the tax imposed by this chapter for the individual's last taxable year beginning in such calendar year shall be increased by the aggregate amount of such payments.

"(2) RECONCILIATION OF PAYMENTS ADVANCED AND CREDIT ALLOWED.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit (other than the credit allowed by subsection (a)) allowable under this subpart.

(b) ADVANCE PAYMENT OF CREDIT.—

(1) IN GENERAL.—Chapter 25 of such Code is amended by inserting after section 3507 the following new section:

"SEC. 3507A. ADVANCE PAYMENT OF INFANT CARE TAX CREDIT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages to an employee with respect to whom an infant care tax credit eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment to such employee equal to such employee's infant care tax credit advance amount.

"(b) INFANT CARE TAX CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this title, an infant care tax credit eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 36 for the taxable year, and

"(2) certifies that the employee does not have an infant care tax credit eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer.

"(c) INFANT CARE TAX CREDIT ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'infant care tax credit advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period, and

"(B) in accordance with tables prescribed by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(B)—

"(A) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables, and

"(B) if the employee is not married, or if no infant care tax credit eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 36 as if it were a credit—

"(i) of not more than the sum of the applicable credit percentages under section 36(b) of earned income not in excess of the amount of earned income which may be taken into account under section 36(b), and which

"(ii) phases down between the amount of gross income at which the phaseout begins under subsection (b)(3) of section 36 and the amount of gross income at which the credit under subsection (b)(3) of section 36 is phased out.

"(d) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (d) and (e) of section 3507 shall apply for purposes of this section. Proper adjustments shall be made in the application of such rules under this section to take into account payments under section 3507.".

(2) INFORMATION SHOWN ON W-2.—Subsection (a) of section 6051 of such Code (relating to receipts to employees) is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof ", and", and by inserting after paragraph (9) the following new paragraph:

"(10) the total amount paid to the employee under section 3507A (relating to advance payment of infant care tax credit).".

(3) REQUIREMENT OF RETURN.—Subsection (a) of section 6012 of such Code (relating to persons required to make returns of income) is amended by inserting after paragraph (9) the following new paragraph:

"(10) Every individual who receives payments during the calendar year in which the taxable year begins under section 3507A (relating to advance payment of infant care tax credit).".

(4) CROSS REFERENCE.—Subsection (e) of section 6302 of such Code (relating to mode or time of collection) is amended by adding

at the end thereof the following new paragraph:

"(3) For treatment of infant care tax credit advance amount as payment of withholding and FICA taxes, see section 3507A(d).".

(c) CLERICAL AMENDMENTS.—

(1) The table sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by striking the item relating to section 36, as redesignated by section 603, and inserting in lieu thereof the following:

"Sec. 36. Infant care tax credit.

"Sec. 37. Overpayments of tax.".

(2) The table sections for chapter 25 of such Code is amended by inserting after the item relating to section 3507 the following new item:

"Sec. 3507A. Advance payment of infant care tax credit.".

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b)(3) shall apply to taxable years beginning after December 31, 1989.

(2) The amendments made by paragraphs (1) and (2) of subsection (b) shall apply to remuneration paid after December 31, 1989.

SEC. 605. CHANGES IN EARNED INCOME CREDIT AND DEPENDENT CARE CREDIT.

(a) TAXPAYERS WHO CLAIM INFANT CARE TAX CREDIT INELIGIBLE FOR EARNED INCOME CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 32(c) of the Internal Revenue Code of 1986 (defining eligible individual) is amended by adding at the end thereof the following new subparagraph:

"(D) TAXPAYERS CLAIMING INFANT CARE TAX CREDIT INELIGIBLE FOR EARNED INCOME CREDIT.—No credit shall be allowed under this section to a taxpayer for the taxable year if the taxpayer claims a credit under section 36 for such taxable year.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1989.

(b) NO DEPENDENT CARE CREDIT FOR EXPENSES WITH RESPECT TO DEPENDENTS FOR WHICH INFANT CARE TAX CREDIT IS CLAIMED.—

(1) IN GENERAL.—Paragraph (1) of section 35(b) of such Code (defining qualifying individual), as redesignated by section 603, is amended by adding at the end thereof the following new sentence:

"The term 'qualifying dependent' shall not include any qualified dependent (as defined in section 36(c)) with respect to whom a credit is claimed for the taxable year.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1989.

SECTION-BY-SECTION ANALYSIS ON THE CHILD CARE ASSISTANCE AND RESOURCES EXPANSION ACT OF 1989

TITLE I—CHILD CARE GRANT PROGRAM

Authorizes a $500 million block grant to the states. This would be an 80-20 matching grant.

Sets a state's allocation with 50 percent based on the number of working single parents and dual-earner families with children under age 13, and 50 percent on the number of children who are receiving free or reduced price school lunches under the National School Lunch Act.

Requires states to develop certification or licensing regulations for all non-relative family and group home child-care providers by 1994.

Establishes a National Commission to write model standards as a guide for state programs. The Administration, the Senate, the House of Representatives, and the National Governors Association would each select 4 members. The Commission would disband after establishing the model standards.

TITLE II—CHILD CARE FOOD PROGRAM

Provides for an additional snack or meal reimbursement for family and group home providers if a child is in their care for 8 hours or more.

TITLE III—CHILD CARE PROVIDER LIBRARY PROGRAM

Amends the Library Services and Construction Act to authorize funds for public libraries to purchase and deliver (expand the use of bookmobiles) children's books, videos, tapes, and toys to licensed child-care providers.

TITLE IV—CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE PROGRAM

Increases funding for the National Credentialing Program and expands the program to include state equivalency programs. It provides for advisor stipends and raises the scholarship eligibility limit.

TITLE V—CHILD CARE EDUCATIONAL PROVISIONS

Provides funding for Local Education Associations to establish or expand before and after school child-care programs. It states that Congress should appropriate the authorized $10 million for postsecondary institutions to assist disadvantaged students to obtain child-care.

TITLE VI—CHILD CARE TAX INCENTIVES

Allows a certified or licensed family or group home provider to receive a tax credit to acquire, rehabilitate, or expand a qualified child-care home and makes the Dependent Care Tax Credit refundable. It modifies the Earned Income Tax credit system so that a parent who stays home with a newborn or newly adopted child until 30 months of age would be eligible for a refund.●

By Mr. WARNER:

S. 410. A bill to amend title 23, United States Code, to establish a program for expanding the capacity of the heavily traveled portions of the National System of Interstate and Defense Highways located in urbanized areas with a population of 50,000 or more for the purposes of reducing traffic congestion, improving safety, and increasing the efficiency of the System; to the Committee on Environment and Public Works.

EXPANSION OF CERTAIN SEGMENTS OF THE INTERSTATE HIGHWAY SYSTEM

● Mr. WARNER. Mr. President, today I am introducing legislation that will help urban and suburban areas of the country cope with increasing levels of traffic congestion on the Federal Interstate System. Our colleague, Congressman FRANK WOLF, introduced an identical bill today in the other body.

Urban and suburban segments of the Federal Highway System have become increasingly congested as traffic volume has increased beyond expectations. In many areas, the system is simply breaking down under huge loads of traffic.

The legislation we are introducing today would create a new category of Federal highway funding to expand the capacity of heavily traveled portions of the Federal Interstate Highway System located in suburban and urban areas of the country. Beginning in fiscal year 1993, $2 billion a year for 4 years would be made available nationwide for this new program.

Funds authorized under our legislation could also be used for construction of noise walls or other sound abatement devices, acquisition of rights-of-way for construction of mass transit facilities, and acquisition of land for park-and-ride-type facilities.

The type of funding program we have proposed is desperately needed throughout the Nation. The Transportation 2020 Program held a series of 65 forums across the country to discuss the future of the Federal Highway Program. Witness after witness in State after State testified about the critical transportation problems that urban and suburban areas are facing.

In metropolitan areas all over the country, interstate highways approach complete gridlock during peak travel periods. The result is that commuters cannot get to work and interstate commerce cannot flow. That translates into reduced productivity, lost income, and time and money ill-spent.

Funds provided under this legislation could be used to widen interstates where traffic overloads occur daily during rush hours. Bottlenecks could be widened or even double-decked.

Our legislation addresses these critical problems by directing Federal funds to the areas of the country where traffic congestion has virtually closed-down the Federal Interstate Highway System.

Funds would be allocated to the States based on a formula which gives preference to urban/suburban areas with high levels of traffic congestion on the Interstate System. Rural areas of the country, however, would not be adversely affected because the Federal Interstate Construction Program is nearly complete and our legislation does not affect other highway funding categories.

The Interstate System started in 1965 is nearly complete and the current highway program is scheduled to end in 1992. We must begin now to look at changes that need to be made to address our Nation's transportation needs. In the next 2 years northern Virginia, Tidewater Virginia, and other urban/suburban areas of the country face tremendous needs in the area of transportation improvements. Our legislation addresses these needs in a way that will bring relief not only to northern Virginia, but to other regions of the country as well without penalizing rural or less populated areas.

By introducing this legislation, we do not intend to overlook or underestimate the problems facing less urbanized sections of Virginia or the Nation. I intend to work diligently to see that those needs are addressed as well. This bill provides an important starting point for discussion of ways to address one particular aspect of our transportation problem as Federal, State, and local representatives and highway users begin reviewing the Federal-Aid Highway Program over the next 2 years.

It is my intention to work with my colleagues, the States, localities, highway user groups and other interested parties to address other vital transportation needs.

Over the next 2 years, as hearings begin on the Nation's transportation needs in the post-interstate period, these same parties will focus on what form any new highway program should take. If there is to be a new Federal-Aid Highway Program to replace the current program which will soon expire, it is vital that expanding urban interstate capacity be a key component of such legislation.

I urge Members to support this legislation.●

By Mr. BOSCHWITZ (for himself, Mr. CRANSTON, Mr. KASTEN, Mr. SYMMS, Mr. GARN, and Mr. LUGAR):

S. 411. A bill to amend the Internal Revenue Code of 1986 to restore a capital gians tax differential, and for other purposes; to the Committee on Finance.

RESTORATION OF CAPITAL GAINS DIFFERENTIAL

● Mr. BOSCHWITZ. Mr. President, today I am reintroducing legislation to reinstate a capital gains exclusion. I have been pushing capital gains reform since the Tax Reform Act of 1986 repealed the 60 percent exclusion. I am pleased that my effort is starting to pay off. As my colleagues know, President Bush is proposing changes in the tax rate for capital gains, and most of what he recommends is embodied in my bill.

I agree with the President that our Tax Code ought to support individuals willing to make long-term, high-risk investments. I am pleased that he has chosen a phased or tiered approach, tied to a holding period of at least 1 year, initially, and moving to a 3-year holding period for more favorable tax treatment.

My bill provides a two-tiered exclusion for long-term capital gains. Gains realized from the sale of a capital asset held for at least 1 year, would be subject to a 40-percent exclusion, providing the taxpayer with an effective maximum marginal rate of 19.8 percent. If the taxpayer holds the asset for at least 3 years, capital gains would be subject to a 60-percent exclusion for a maximum marginal rate of 13.2 percent.

Mr. President, clearly America is experiencing some pretty good times—low inflation, low unemployment, 19 million new jobs, exports are rising, and capital spending is on the rise. But, in spite of the good news, I don't believe America has been paying enough attention to her economic future. Frankly, although I supported the Tax Reform Act because it extends the tax burden to many corporate and individual taxpayers who should be paying taxes, I firmly believe repealing the capital gians exclusion has made it much more difficult to attract venture capital.

If the current approach, to capital investment and economic development continues, we will see a steady stream of our brightest young entrepreneurs looking outside the United States for their investment capital. Of course, with the outside investment goes the likelihood that technology and jobs will also be shifted to foreign entities who pay no taxes and who would have no obligation to erect job-creating plants in the United States.

We simply must recognize the distinction between ordinary income and capital gains income. The latter form of income is the result of making a commitment for the long term, whether it's by building a business, purchasing stock in a high-risk venture or running a family farm.

I strongly support the President's argument that reducing the tax rate for risky investments is the best way to stimulate long-term real economic growth. When I started my business in Minnesota, the top Federal tax rate was 91 percent. President Kennedy reduced rates to 70 percent—for unearned income—and 50 percent—on earned income. President Reagan dropped them both to 28 percent. Those high rates of earlier years were unfair to the poor and middle Americans. High income taxpayers had enormous motivation and the means to find or create the loopholes—and they succeeded.

Now we've made taxpayers out of those big earners. Government statistics consistently show that the rich pay more taxes at lower rates. All the fancy tax shelters no longer make sense.

A reduction in the capital gains rate will benefit not only the rich, but also low- and middle-income taxpayers, small business owners and family farmers across the country. I agree with President Bush that lower income taxpayers especially have an interest in capital gains reform. His recommendation that such taxpayers pay no tax on their gains is right on the mark.

Consider a typical Midwestern scenario: A hard-working, middle-income couple operates a small business or farm. They own property. Finally, after many years of work, they sell their business or farm that by any measure is modest. Inflation on their real estate and years of depreciation reduce their basis and result in a large gain. In that year they're among the rich and they love it. The next year they revert to their earlier middle-income status. This scenario is played out many time each year across the country.

I have been greatly encouraged by the President's strong support for capital gains reform. He has a vision, I am convinced, of where our economy needs to be heading if we are to compete in the 1990's and beyond. But he will need the support of all of us, Democrats and Republicans. It may be that some will disagree with specific parts of his proposal, but at least he has joined the debate. For that, I thank him.

For my part, I intend to continue pushing this subject in Congress through the Capital Gains Coalition, which I founded last year. I am pleased that our membership in the House and Senate has continued to grow, and I invite my colleagues to contact me if they have an interest in joining this group.

Mr. President, as my colleagues know, my two-tiered approach to capital gains reform is one of several that have been filed already in this Congress by other Members. Clearly, there is renewed interest in this issue and I look forward to vigorous debate here in the Senate in the weeks ahead.

Mr. President, I ask unanimous consent to have a copy of my bill printed in the RECORD.

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

S. 411

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

SECTION 1. RESTORATION OF CAPITAL GAINS TAX DIFFERENTIAL.

(a) TAXPAYERS OTHER THAN CORPORATIONS.—

(1) IN GENERAL.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to treatment of capital gains) is amended by inserting after section 1201 the following new section:

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS.

"(a) DEDUCTION ALLOWED.—

"(1) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, there shall be allowed as a deduction from gross income an amount equal to the sum of—

"(A) 60 percent of the lesser of—

"(i) the net capital gain, or

"(ii) the qualified net capital gain, plus

"(B) 40 percent of the excess (if any) of—

"(i) the net capital gain, over

"(ii) the amount of the qualified net capital gain taken into account under subparagraph (A).

"(b) QUALIFIED NET CAPITAL GAIN.—For purposes of subsection (a), the term 'quali-

fied net capital gain' means the amount of net capital gain which would be computed for any taxable year if, in determining net long-term capital gain for such taxable year, only capital assets held by the taxpayer for at least 3 years at the time of the sale or exchange were taken into account.

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under section 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets."

(b) CORPORATIONS.—Subsection (a) of section 1201 of the Internal Revenue Code of 1986 (relating to the alternative tax for corporations) is amended to read as follows:

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) or (b), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 28 percent of the net capital gain."

(c) CONFORMING AMENDMENTS.—

(1) Section 1 of the Internal Revenue Code of 1986 is amended by striking out subsection (j).

(2) Section 57(a) of such Code is amended by adding at the end thereof the following new paragraph:

"(8) CAPITAL GAINS.—

"(A) INDIVIDUALS.—In the case of a taxpayer other than a corporation, an amount equal to the net capital gain deduction for the taxable year determined under section 1202.

"(B) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.

"(C) SPECIAL RULE FOR CERTAIN INSOLVENT TAXPAYERS.—

"(i) IN GENERAL.—The amount of the tax preference under subparagraph (A) shall be reduced (but not below zero) by the excess (if any) of—

"(I) the applicable percentage of gain from any farm insolvency transaction, over

"(II) the applicable percentage of any loss from any farm insolvency transaction which offsets such gain.

"(ii) REDUCTION LIMITED TO AMOUNT OF INSOLVENCY.—The amount of the reduction determined under clause (i) shall not exceed the amount by which the taxpayer is insolvent immediately before the transaction (reduced by any portion of such amount previously taken into account under this clause).

"(iii) FARM INSOLVENCY TRANSACTION.—For purposes of this subparagraph, the term 'farm insolvency transaction' means—

"(I) the transfer by a farmer of farmland to a creditor in cancellation of indebtedness, or

"(II) the sale or exchange by the farmer of property described in subclause (I) under the threat of foreclosure,

but only if the farmer is insolvent immediately before such transaction.

"(iv) INSOLVENT.—For purposes of this subparagraph, the term 'insolvent' means the excess of liabilities over the fair market value of assets.

"(v) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term 'applicable percentage' means that percentage of net capital gain with respect to which a deduction is allowed under section 1202(a).

"(vi) FARMLAND.—For purposes of this subparagraph, the term 'farmland' means any land used or held for use in the trade or business of farming (within the meaning of section 2032A(e)(5)).

"(vii) FARMER.—For purposes of this subparagraph, the term 'farmer' means any taxpayer if 50 percent or more of the average annual gross income of the taxpayer for the 3 preceding taxable years is attributable to the trade or business of farming (within the meaning of section 2032A(e)(5))."

(3) Section 62(a) of such Code is amended by adding after paragraph (12) the following new paragraph:

"(13) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202."

(4) Subparagraph (B) of section 170(e)(1) of such Code is amended by inserting "100 percent minus the percentage described in subparagraph (A) or (B) of section 1202(a)(1), whichever is applicable, of" before "the amount of gain".

(5) Section 172(d)(2) of such Code (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includible on account of gains from sales or exchanges of capital assets; and

"(B) the deduction for long-term capital gains provided by section 1202 shall not be allowed."

(6) Subparagraph (B) of section 172(d)(4) of such Code is amended by inserting ", (2)(B)," after "paragraphs (1)".

(7)(A) Section 220 of such Code (relating to cross reference) is amended to read as follows:

"SEC. 220. CROSS REFERENCES.

"(1) For deduction for long-term capital gains in the case of a taxpayer other than a corporation, see section 1202.

"(2) For deductions in respect of a decedent, see section 691."

(B) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out "reference" in the item relating to section 220 and inserting "references".

(8) Subparagraph (D)(v) of section 593(b)(2) is amended to read as follows:

"(v) by excluding from gross income an amount equal to the lesser of 9/14 of the net long-term capital gain for the taxable year or 9/14 of the net long-term capital gain for the taxable year from the sale or exchange of property other than property described in clause (iii)."

(9) Paragraph (4) of section 642(c) of such Code is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year, proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(10) Paragraph (3) of section 643(a) of such Code is amended by adding at the end thereof the following new sentence: "The deduction under section 1202 (relating to deduction for excess capital gains over capital losses) shall not be taken into account."

(11) Paragraph (4) of section 691(c) of such Code is amended by striking out "1(j), 1201, and 1211" and inserting in lieu thereof "1201, 1202, and 1211, and for purposes of section 57(a)(8)".

(12) Clause (iii) of section 852(b)(3)(D) of such Code is amended by striking out "66 percent" and inserting in lieu thereof "72 percent".

(13) The second sentence of paragraph (2) of section 871(a) of such Code is amended by inserting "such gains and losses shall be determined without regard to section 1202 (relating to deduction for capital gains) and" after "except that".

(14) Paragraph (2) of section 904(b) of such Code is amended to read as follows:

"(2) CAPITAL GAINS.—For purposes of this section—

"(A) CORPORATIONS.—In the case of a corporation—

"(i) the taxable income of such corporation from sources without the United States shall include gain from the sale or exchange of capital assets only in an amount equal to foreign source capital gain net income reduced by the rate differential portion of foreign source net capital gain,

"(ii) the entire taxable income of such corporation shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income reduced by the rate differential portion of net capital gain, and

"(iii) for purposes of determining taxable income from sources without the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a)) from sources without the United States to the extent taken into account in determining capital gain net income for the taxable year shall be reduced by an amount equal to the rate differential portion of the excess of net capital gain from sources within the United States over net capital gain.

"(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a taxpayer described in subparagraph (A), taxable income from sources without the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income."

(15) Paragraph (3) of section 904(b) of such Code is amended by striking out subparagraphs (D) and (E) and inserting in lieu thereof the following new subparagraph:

"(D) RATE DIFFERENTIAL PORTION.—The 'rate differential portion' of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b)."

(16) Section 1402(i)(1) of such Code is amended to read as follows:

"(1) IN GENERAL.—In determining the net earnings from self-employment of any options dealer or commodities dealer—

"(A) notwithstanding subsection (a)(3)(A), there shall not be excluded any gain or loss

(in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from section 1256 contracts or property related to such contracts, and

"(B) the deduction provided by section 1202 shall not apply."

(17) Section 1445(e) of such Code is amended—

(A) by striking out "34 percent (or, to the extent provided in regulations, 28 percent)" in paragraph (1) and inserting in lieu thereof "28 percent", and

(B) by striking out "34 percent" in paragraph (2) and inserting in lieu thereof "28 percent".

(18) The table of sections for part I of subchapter P of chapter 1 of such Code is amended by inserting after the item relating to section 1201 the following new item:

"Sec. 1202. Deduction for capital gains."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.●

Mr. CRANSTON. Mr. President, I am pleased to be an original cosponsor of S. 411, Senator BOSCHWITZ's capital gains legislation. I have worked with my good friend from Minnesota on this issue for many years and I look foward to working with him again this Congress.

This is a very straightforward bill: It reestablishes a capital gains differential for long-term gains. It would provide a 40-percent exclusion for assets held over 1 year and a 60-percent exclusion for assets held over 3 years. This differs from prior law in that it requires a longer holding period. I favor this broad based approach to the capital gains issue and the 3-year holding period is essential to encourage long-term investment.

While I supported the Tax Reform Act of 1986, I did not support the elimination of a capital gains differential. In fact, Senator BOSCHWITZ and I pushed for retaining a meaningful differential. I strongly disagree with those who claim reinstating a differential would unravel the Tax Act.

Mr. President, the issue of capital gains taxation is probably one of the most controversial tax issues around today. At the heart of the controversy over capital gains is the question of whether it raises revenue or loses revenue. I believe more revenue will be generated by a lowering of the rate—as was the case in previous instances—but clearly this is a contentious issue and there is no definitive answer. Therefore, the debate should focus on what is good for the long-term health of our economy. What will give investors an incentive to avoid short-term speculation and take long-term risks? In my opinion, a lower tax on capital gains is one of the principle answers.

President Bush has made a lowering of the capital gains tax a major goal of his administration, and I look forward to seeing the details of his specific proposal. But the capital gains issue is not a Republican versus Democratic issue, it is not a rich versus poor issue. Last year, I was pleased to join with several of my colleagues in both Houses to form the bipartisan capital gains coalition. Each of us may support a different specific proposal, but we all support a lower capital gains rate to spur capital formation and job creation. I have not, at this point, cosponsored any other capital gains bills, but I commend my colleagues on both sides of the aisle who have introduced bills. This is a very important issue and a healthy debate on all the options will lead to a more thorough analysis and a better resolution of the issue.

By Mr. PACKWOOD (for himself, Mr. MOYNIHAN, Mr. DANFORTH, Mr. PRYOR, Mr. HEINZ, Mr. ROCKEFELLER, and Mr. RIEGLE):

S. 412. A bill to amend the Internal Revenue Code of 1986 to increase the amount of the credit for expenses with respect to child care for dependent children, to make such credit refundable, to amend the Social Security Act to increase the funds available for child care, and for other purposes; to the Committee on Finance.

EXPANDED CHILD CARE OPPORTUNITIES ACT

● Mr. PACKWOOD. Mr. President, the 101st Congress will face a number of challenges, but none more fundamentally important than the well-being of our Nation's children. Child care was a dominant issue in the last Congress, and will be again in this Congress. President Bush has also made child care a top priority.

The debate in recent months on child care has made the country and the Congress focus on the difficulty working parents have in locating safe, affordable care for their children. I doubt that there is a Member of this body who had not heard from a number of his or her constituents urging him or her to do something about the child care dilemma. The argument on child care is no longer whether the Federal Government should play a role in the solution to the problem but what type of role.

Currently, there are a number of child care bills that have been introduced already in this Congress and a number of other bills still being developed by our colleagues. In my opinion, there are two basic approaches involving the Federal Government in this solution. The first approach would create a Federal bureaucracy based in Washington to exercise control over day care in the 50 States. The second approach would provide parents with the flexibility to exercise their own judgment in the care they select for their children.

Last year, I held a series of child care hearings in Oregon to find out what difficulties Oregonians faced in finding and paying for safe, reliable child care. The lack of affordable child care may, in fact, deter individuals from pursuing an education or obtaining additional training because they are unable to locate care for their children. For example, at a field hearing I held in the community of Pendleton, OR, I heard from students at Blue Mountain Community College. Some of these students told me that they bring their children with them to class because they cannot afford to pay for child care. Parents should not be forced to choose between improving their family's future and caring for their children. Yet this is a choice that many parents are faced with at the present time.

Each family situation is different and the type of child care each family prefers may be different as well. To help families meet the cost of child care, the legislation my colleagues and I introduce today provides financial assistance to working families through the dependent care tax credit. Ideally, parents should be able to choose from a number of child care options and obtain the one that best suits themselves and their children. Our approach maximizes the range of child care options parents can choose for their kids and still receive Government assistance.

Our bill achieves two goals. First, it helps parents pay for their choice of a variety of child care programs. Second, it addresses the need for improved and expanded child care options. Our bill accomplishes the latter by providing States with additional money through the current title XX Social Services block grant to enhance or expand their own child care programs and services.

Our bill also acknowledges the importance of accountability for the receipt of Federal funds. To be eligible for the child care tax credit, the child care provider selected by a parent claiming a tax credit must be in compliance with any applicable local or State regulations.

I am confident that the Congress, working with concerned citizens and the President, will arrive at a solution that provides the best possible child care for our children.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

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

SUMMARY OF PACKWOOD-MOYNIHAN EXPANDED CHILD CARE OPPORTUNITIES ACT OF 1989

PURPOSE

To provide low and moderate income parents with a greater variety of child care options and to assist States in improving their child care programs. The Expanded Child Care Opportunities Act of 1989 achieves these goals by increasing the amount of money low and moderate income families have to spend on child care and by increasing the funds available to States for child care services.

MAJOR FEATURES OF THE BILL

The bill has two major features:

The present law child care tax credit is increased and made fully refundable for low and moderate income families.

The present law Social Services Block Grant under Title XX of the Social Security Act is increased by $400 million so that States may improve their child care services.

Each of these features is described below.

INCREASE TO THE CHILD CARE TAX CREDIT

The bill significantly increases the present law child care tax credit for families with income under $25,000. (The present law child care tax credit remains the same for families with income over $25,000.) The bill also makes the credit fully are refundable so that lower income families who pay little or no Federal income tax can take advantage of the credit.

Child Care Tax Credit percentages are increased for low- and moderate-income families:

Over/not more than	Child care tax credit rate (in percent)	
	Present law	Packwood-Moynihan bill
Family adjusted gross income (AGI):		
$0 to 12,500	28–30	40
$12,500 to 15,000	27–28	37
$15,000 to 17,500	26–27	34
$17,500 to 20,000	25–26	31
$20,000 to 22,500	23–24	28
$22,500 to 25,000	22–23	25
$25,000 to 27,500	21–22	22
$27,500 and over	20	20

Maximum Credit Is Increased:

Under present law, the maximum amount of child care expenses eligible for the credit is $2,400 for one child and $4,800 for two or more children. Thus, the maximum credit at the 30 percent rate is $720 for one child and $1,440 for two or more children.

Under the bill, the maximum credit at the new 40 percent rate would be $960 for one child and $1,920 for two or more children. This represents a one-third increase in the maximum credit. Compare, for example:

Family income (AGI)	Present law	Packwood-Moynihan bill
$10,000 and under	[1] $1,400	$1,920
$15,000	[1] 1,296	1,776
$20,000	1,152	1,448
$25,000	1,056	1,200
$30,000 and up	960	960

[1] In fact, these families derive little or no benefit from the present law credit because it is not refundable.

Credit Is Refundable:

In a significant departure from present law, the credit would be made "refundable" for lower income families who pay little or no Federal income tax. A refundable credit is one that is paid even though you have no tax liability. Currently, lower income families do not benefit from the child care tax credit. Under the bill, the child care tax credit reduces your tax liability to zero and then any remaining credit is refunded.

Credit Can Be Received In Parent's Paycheck:

The benefit of the credit is received by the parent throughout the year by reducing wage withholding and/or estimated tax payments.

For lower income families eligible for a refundable credit, the benefit is added to the parent's paycheck as "negative income tax withholding." For example, if the parent's normal take-home pay is $500 and the child care tax credit for that pay period is $50, the parent's paycheck would equal $550.

Compliance with Government Regulation Is Required:

As under present law, the day care provider must operate in compliance with any applicable state or local regulations in order for the parent to claim a tax credit.

Examples Of How The Bill Would Work:

Jack and Jane Miller are a two-worker family living in Medford, Oregon. In 1989, their annual income is $25,000 and federal income tax is $1,800. They pay $350 a month to the Supertots Child Care Center for the care of their two sons, ages three and four. The child care cost for both children is $4,000 annually. Under current law, they are eligible for a child care tax credit of $880. Under the bill, the credit would increase to $1,000. This means an additional $120 would be available to the Millers for their child care costs.

Angela Smith is a young widow with one child living in New York. Her job pays her $12,000 annually. For 1989 her federal income tax is $500. Although she is eligible for a child care tax credit of $700 under current law, she only receives $500 of it—the amount which reduces her income taxes to zero. The rest of the credit is lost because it is not refundable.

Under the bill, her child care tax credit would be increased to $960. And Ms. Smith will receive the full benefit of the credit—instead of only $500 under current law—because $460 of the credit would be refunded to her. Thus, Ms. Smith would have an additional $460 to help with her child care costs.

TITLE XX INCREASE FOR CHILD CARE

The second major feature of this bill provides additional funds for child care as part of the present law Social Services Block Grant (Title XX of the Social Security Act).

Under Title XX, states will receive additional funds to correct deficiencies in the supply of child care and to expand and improve the quality of child care services, with an emphasis on lower income families. Within these broad guidelines, states will have wide latitude to determine how best to use these funds.

To be eligible for these funds, a State must submit a written application for approval by the Secretary of the Department of Health and Human Services.

Funds would be allocated among the States based on the number of children under age 13.

Beginning with FY 1990, Title XX funds for child care will increase by $400 million. This represents a significant increase over the Title XX funds currently used for child care services.●

● Mr. MOYNIHAN. Mr. President, I rise today with my friend and colleague from Oregon, the distinguished ranking member of the Senate Committee on Finance, Senator PACKWOOD, to introduce the Expanded Child Care Opportunities Act of 1989 [ECCO].

This is a simple but important bill. It does two things: First, it corrects an inequity in the current Tax Code that deprives low-income working families of the child care tax credit. Our bill will make sure that low-income working families benefit from the credit by making it fully refundable. In addition, our bill will make the credit more generous for the lowest-income families. I want to stress that in making these improvements to the credit we do not in any way reduce the credit available under current law.

Second, our proposed bill would provide States with additional funds, through the social services block grant—title XX of the Social Security Act—for child-care related services and activities.

THE CHANGING AMERICAN FAMILY

Mr. President, the American family has changed dramatically during the last two decades. During this time, we have witnessed a new phenomenon which has no precedent in modern American history: the stagnation of growth in family income. Since 1973, median family income has remained essentially flat: $30,820 in 1973, $30,853 in 1987. More troubling, black and Hispanic families have actually seen a precipitous decline in income. For black families, median family income peaked at $18,952 in 1978. By 1987 it had declined nearly $900 to $18,098. For Hispanic families, median family income peaked at $22,288 in 1973; by 1987, it had declined by nearly $2,000 to $20,306.

Over the same time period, our economy—indeed, our social condition—has been transformed by the entry of unprecedented numbers of women into the work force. Today, over 70 percent of all mothers are in the labor force. Over half of all mothers with preschool-age children are in the labor force: 57 percent with children under 6, 53 percent with children under 3, and, for the first time in our Nation's history, 51 percent with infants under age 1 are returning to work. Many of these working mothers are driven by economic necessity—as the income statistics I mentioned a moment ago make all too plain.

Another social fact commands our attention. I call it the dual family system. We have become a society divided into two kinds of families. The first is the intact family, where both parents live together at home. The second, increasing in number, is the single-parent family. One child in two will at some point live in a single-parent, usually a female-headed household. The Bureau of the Census projects that only 39 percent of children born last year will live with both biological parents until age 18.

There is an important economic dimension to this dual family system; indeed, we may be entering an era in which the dual family system defines the gradations of social class in America. Simply put, intact families are better off than single-parent families. In 1986, counting all cash, in-kind, and tax transfers, the Census Bureau reports that children in married-couple families are far less likely to be poor than those in single-parent families. White children in intact families expe-

rienced poverty at the rate of 7 percent, blacks 11 percent, and hispanics 20 percent. Their counterparts in female-headed families suffered a more terrible fate: poverty rates of 34 percent for white children, 50 percent for black, and 48 percent for Hispanic.

In sum, median family income has remained virtually stagnant over the past generation; mothers have entered the labor force in record numbers; and the country has entered upon an era in which half its children will live in single-parent families and, thus, will very likely be poor.

It is essential, then, that we do all we can to enable parents to better the economic status of their families through work. One sure way to help is by ensuring that parents have the wherewithal to afford decent child care.

CHILD CARE AND THE WORKING PARENT

There is a wide range of child care options available, from relatives and family day care homes to church run day care centers to private for-profit child care centers to employer-provided child care services.

Sandra L. Hofferth of the Urban Institute estimates that, in 1986, there were 63,000 day care centers with the capacity to serve some 2 million children. That same year, there were approximately 165,000 licensed homes with room for about half a million children. Dr. Hofferth's study shows that another 2.7 million children could be served in available unlicensed day care homes and day care centers, putting the total number of day care spaces in out-of-home, nonrelative care settings at 5.3 million.

As I say, a wide range of options exists; however, not all options are readily affordable for low-income families. In 1986, the average payment per week for compensated child care was $53 for a preschooler for 40 hours of care. This translates to approximately $2,800 per year. For a minimum wage earner, earning about $7,000 per year, child care costs could consume as much as 40 percent of earnings.

Clearly, for low- and middle-income families, child care at these prices constitutes a major burden. On average, according to Hofferth:

> Among those who pay for care, child care expenditures constitute a substantial proportion of the total weekly income of American families who pay for care . . . as high as 20 to 25 percent among poor families.

THE FAMILY SUPPORT ACT OF 1988

In the Family Support Act of 1988 (Pub. L. 100-485), we created a new capped entitlement program for welfare families called the JOBS Program. The JOBS Program will help poor parents who are AFDC recipients prepared to enter the labor force by providing education, training, and work experience.

While welfare families are participating in the JOBS Program, the Family Support Act guarantees them child care. When those families are ready to make the transition from the welfare rolls to payrolls, the Family Support Act provides 1 year of transitional child care services.

Mr. President, the refundable child care tax credit we propose today will pick up where the Family Support Act leaves off.

THE CHILD CARE TAX CREDIT

The Congress has long recognized that low- and middle-income families need help with child care expenses. A tax break for child care expenses was first enacted as section 214 of the Internal Revenue Code of 1954. At that time, a deduction was granted to working women, widowers, and legally separated or divorced men for specified employment-related dependent care expenses.

In 1976, the dependent care tax deduction was replaced by a nonrefundable tax credit. The credit was set at a flat 20 percent for all families for work-related dependent care expenses up to $2,000 for one qualifying individual and $4,000 for two or more qualifying individuals. A qualifying individual was defined as a dependent under the age of 15, physically or mentally incapacitated dependent, or a physically or mentally incapacitated spouse.

In 1982, the maximum credit was increased to 30 percent of dependent care expenses, phasing down gradually to 20 percent, by 1 percentage point for each $2,000 of adjusted gross income above $10,000. At the same time, the maximum amount of dependent care expenses to which the credit could be applied was increased to $2,400 for one dependent and to $4,800 for two or more dependents.

In 1988, the Family Support Act modified the definition of a qualifying individual to dependents under age 13, instead of 15.

The credit works well. It is estimated that, in 1988, nearly 10,000 families will claim the credit, for an average amount of $419. There is but one flaw. The families most in need—those working for low wages but with fixed child-care costs—do not now fully benefit from the credit. Many receive no benefit at all. This is because the existing dependent care credit is not refundable. If a family's Federal tax liability exceeds the credit, then the family fully benefits. If the credit exceeds tax liability, then the family benefits in part. If there is no Federal tax liability, there is no benefit. Consider: These families work. They must pay for child care. They earn too little to owe Federal taxes. Yet we deprive them of the child-care tax credit. And we compounded the problem with our sweeping 1986 tax reform legislation.

In the Tax Reform Act of 1986, Congress did something revolutionary: We removed 6 million low-income families from the tax rolls. We are deservedly proud of that act; we stopped taxing people into poverty. However, in removing the working poor from the tax rolls, we inadvertently denied them the child care tax credit. Recall: No tax liability, no dependent care credit. Period.

We are here today to correct this inequity in our Tax Code.

THE EXPANDED CHILD CARE OPPORTUNITIES ACT

The bipartisan legislation we introduce today will do two important things: First, it makes the existing dependent care tax credit refundable and more generous—thereby providing real relief for lower-income families. Second, it will provide additional funds, through the social services block grant—title XX of the Social Security Act—for States to expand and improve their child care services.

By making the dependent care credit refundable, low-income working families with no Federal tax liability will be paid the value of the credit in cash. As under current law, families with income tax liability may apply the credit to the amount of Federal income taxes they owe. If there is limited Federal income tax liability, the credit can be used to reduce that liability to zero and any remaining credit will be paid to the family in cash. Families may claim their credit at the end of the tax year or they may receive the credit throughout the year through reduced Federal wage withholding in each paycheck.

Our bill would also make the credit more generous for lower-income families. Specifically, we increase the maximum credit from 30 percent of dependent care costs of up to $2,400 for one dependent—$4,800 for two or more—to 40 percent. We also modify the credit phase-down. Under current law, the credit begins phasing down for families with adjusted gross incomes above $10,000. Under our legislation, the 40-percent credit will not begin phasing down until a family's adjusted gross income exceeds $12,500.

We recognize that an expanded child-care tax credit by itself may not address some of the current problems with the supply of child care. We know, for example, that there is a shortage of infant care nearly everywhere. We know that some geographical areas have a shortage of child care providers. We also know that States are trying to improve their information and referral services and to better monitor child care providers.

In order to assist States with these and other child-care concerns, title II of our legislation will increase the social services block grant available to States by $400 million in fiscal year 1990 and future fiscal years. These new funds would be earmarked specifically for child care services. States will have wide latitude in determining how best to spend these new resources to

improve the availability, accessibility, affordability, and quality of child care. The $400 million will be allocated among States based on the population of children aged 12 and younger. States will be prohibited from using these funds to supplant existing expenditures on child care. The bill also requires the Secretary of HHS to report to the Congress annually on how States are using these funds and, within 3 years from the date of enactment, to evaluate the program and to make recommendations on how it might be improved.

Mr. President, the Expanded Child Care Opportunities Act corrects a grave injustice in our Tax Code—one that punishes low-income working families—and provides States with some additional Federal resources to use as they best see fit to improve their child care services.

The Joint Tax Committee estimates our tax-credit provision will cost $2.6 billion in the first full year of operation. Together with the $400 million increase in title XX funding, our bill weighs in at $3 billion. This is not an inconsiderable sum. And yet, Mr. President, I suggest that the long-term cost of turning our backs on working American families and their children is far higher.

I urge my colleagues to join with Senators PACKWOOD, PRYOR, DANFORTH, HEINZ, ROCKEFELLER, RIEGLE, and me in support of this important legislation.●

By Mr. CHAFEE (for himself, Mr. BAUCUS, and Mr. HOLLINGS):

S.J. Res. 61. Joint resolution to designate April 1989 as "National Recycling Month"; to the Committee on the Judiciary.

NATIONAL RECYCLING MONTH

● Mr. CHAFEE. Mr. President, today Senator BAUCUS and I are introducing legislation to designate April 1989 as National Recycling Month. The importance of educating the public about the real benefits to society from recycling cannot be overstated.

A public education campaign must be launched to inform consumers that garbage does not disappear when the sanitation worker loads it into the truck. Our society must be made aware that there are very real costs, both financial and environmental, associated with the continued proliferation of municipal garbage.

In the United States today we are facing a crisis in solid waste management. The United States presently is generating about 160 million tons of solid waste, almost double the amount we produced in 1965. If present trends continue, the United States will generate close to 200 million tons by the turn of the century. Towns and cities across the United States are realizing that the city dump will be forced to close its gates in a few short years. In the meantime, during the last two decades the number of landfills accepting solid waste has been reduced dramatically—from about 30,000 to 6,000. It is becoming virtually impossible to establish any new landfill sites because of the "not in my backyard syndrome," and the rising value of land and real estate.

When confronting an urgent crisis, such as the threat to human health and the environment from burgeoning mountains of trash, it is tempting to look to technology to provide us with the easy solution. Such technological fixes, however, will not eliminate the undeniable need for significant changes in the way we conduct our daily lives. Not only must we find more environmentally sound ways of handling municipal trash, but we must also greatly reduce the amount of garbage we generate in the first place. This will require a concerted effort on the part of consumers, manufacturers, and government. That is why we are introducing legislation to designate April 1989 as National Recycling Month.

Reducing the amount of household garbage we generate poses the most difficult of public policy problems: changing human habits. The purpose of this legislation is to encourage a public attitude that can allow these needed changes to take place. People must be made aware that their actions do have a critical impact on reducing the amount of garbage entering the waste stream.

It is imperative that people learn sound disposal practices at an early age, so that by adulthood those practices will have become habit. The primary reason we have selected April as National Recycling Month is so that schools will have an opportunity to commemorate the month with appropriate educational activities centered around source separation and recycling.

My home State of Rhode Island, for example, was the first State to pass a mandatory recycling law. Citizens in West Warwick and East Greenwich, RI, separate recyclables such as glass, paper, aluminum and plastics for curbside collection. This recycling program will eventually extend to the entire State.

Recycling also creates employment. According to one recent study 10,000 tons of material spawns 36 jobs compared to 6 for landfilling the same amount. Some communities have formed working partnerships with workshops for the disabled, developed and administered job training partnerships, or otherwise found work for unemployed labor in recycling programs. In my own State, the Rhode Island Department of Environmental Management estimates that 300 jobs have been created by recycling.

The exciting feature of the battle against solid waste is that it can be won. Other nations are doing far better than we are. No drastic solutions are required, nor are big sacrifices sought. Relatively small changes in habits, modest incentives, and reasonable laws can produce victory. I urge my colleagues to help us move closer toward that victory by joining us in designating April 1989 as National Recycling Month. I ask unanimous consent that the full text of the joint resolution be printed in the RECORD.

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

S.J. RES. 61

Whereas a solid waste disposal crisis exists in the United States;

Whereas half of the major cities in the United States will have no space available for disposal of garbage within 4 years;

Whereas trash incineration and nonincineration industries should adopt recycling methods;

Whereas source separation, mechanical separation, and community-based recycling programs divert a significant portion of waste from landfills;

Whereas recycling preserves limited landfill capacity for disposal of nontoxic waste;

Whereas recycling saves energy and avoids the pollution created in extracting resources from their natural environment;

Whereas the revenues from goods recovered by public sector recycling programs help to offset the costs of the programs;

Whereas shared savings, which accrue by avoiding the higher cost of landfills or incineration, make recycling an economically efficient disposal policy even where markets for recycled materials are weak or undeveloped;

Whereas a well-developed system of recycling scrap metals, paper, and glass already exists and significantly reduces the quantity of solid waste composed of metal, paper, and glass;

Whereas substantial increases in the amount of materials recycled will require development of markets that absorb the increase in the amount of materials recycled, known as incremental markets;

Whereas many consumer products are designed without sufficient regard for safe and efficient recycling after disposal;

Whereas the Federal Government and State and local governments should enact legislative measures that will increase the amount of solid waste that is recycled;

Whereas the Federal Government and State and local governments should encourage the growth of incremental markets for materials recovered from recyclable goods;

Whereas the Federal Government and State and local governments should promote the design of products that can be recycled safely and efficiently after use;

Whereas the Federal Government and State and local governments should establish requirements for in-home separation of waste to enable efficient recycling; and

Whereas the people of the United States should be encouraged to participate in educational and legislative endeavors that promote waste separation methods, community-based recycling programs, and expanded utilization of recovered materials: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1989 is designated as "National Recycling Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.●

● Mr. BAUCUS. Mr. President, I rise in support of legislation to designate April 1989 as "National Recycling Month."

Recycling is a good idea whose time has come. Many Americans agree. A recent survey by the National Solid Waste Management Association shows overwhelming support for recycling. Over 80 percent of those questioned support recycling and believe it could make a substantial dent in the amount of solid waste.

But while we all believe in recycling, only about 10 percent of our garbage is currently being recycled. The rest is thrown away, and that may be the biggest waste of all.

We must start to recycle more and throw out less, or we could easily be buried in waste. Our Nation is the clear leader of the throw away society. Each American tosses nearly 3½ pounds of paper, cans, food, and yard wastes every day. By contrast, the Japanese toss out about 3 pounds per day.

Most of our garbage, nearly 85 percent, ends up in one of the Nation's 6,000 existing municipal landfills. In the next 5 years we can expect one-third of these to close. And within 10 years over half will be full. At the same time, our waste heap will continue to grow by another 40 million tons.

As you can see, unless we change our ways, we will run out of places to dump our trash. We will no longer be known as the land of opportunity, but the landfill of opportunity. And while recycling isn't the answer to our problems, it is a giant step in the right direction. And it is one we can all take.

Much of our garbage can be recycled. Some is being recycled. Large scale recycling is fact, not fiction. It is happening now.

Several States have set up programs to turn their waste into recycled paper, bottles and cans. And several manufacturers have done the same.

One of the best examples is aluminum can recycling. It's an American success story we can all learn from. Aluminum can manufacturers, as the story goes, decided they could save money and resources by using cans over and over and over again. So between 1980 and 1988 they recycled nearly 270 billion aluminum cans. And these cans ended up on our store shelves and not in our landfills.

But we need to do much, much more. We must make recycling a part of our daily lives. It must become as common as our morning coffee. Like the aluminum can manufacturers we must treat our waste as a resource, not refuse.

By designating April 1989 as "National Recycling Month" we can begin to get the word out that recycling makes good sense. It is an investment for the future. It will divert some of our waste from landfills. And it will save energy and resources by reusing what we would have thrown away.

But designating April as "National Recycling Month" is just the beginning. We can't simply talk about recycling, our actions not our words are what matters.

We must educate the public about recycling. We must share technical information on recycling. We must manufacture products that can be more easily recycled. We must stimulate and expand our recycling markets. And we must provide the tools and resources to make it happen.

Later this month I will introduce legislation to reauthorize RCRA. Like the RCRA bill I introduced last year, it provides a structure to make recycling happen.

But it goes beyond recycling. It also provides the tools and resources to help our manufacturers develop products, packages and other consumer goods that generate less waste in the first place. And last but certainly not least it puts in place the control necessary to safely manage waste that we can not reduce and cannot recycle.

The problem is too large and too complex for a single solution. Nevertheless, designating April as "National Recycling Month" is a good start. In the short term, it will help to enlighten us on the benefits of recycling. In the longer term, it will help us recognize how recycling, together with waste reduction and better waste management will lead to a safer environment for everyone. I urge my colleagues to help achieve these benefits by designating "April 1989 as National Recycling Month."●

ADDITIONAL COSPONSORS

S. 4

At the request of Mr. KENNEDY, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Ohio [Mr. METZENBAUM], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Connecticut [Mr. DODD], the Senator from Illinois [Mr. SIMON], the Senator from Iowa [Mr. HARKIN], the Senator from Washington [Mr. ADAMS], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 4, a bill to amend the Fair Labor Standards Act of 1938 to restore the minimum wage to a fair and equitable rate, and for other purposes.

S. 54

At the request of Mr. METZENBAUM, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 54, a bill to amend the Age Discrimination in Employment Act of 1967 with respect to the waiver of rights under such Act without supervision, and for other purposes.

S. 89

At the request of Mr. SYMMS, the names of the Senator from Indiana [Mr. LUGAR], the Senator from Utah [Mr. HATCH], the Senator from Wyoming [Mr. WALLOP], the Senator from Idaho [Mr. MCCLURE], and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 89, a bill to delay for 1 year the effective date for section 89 of the Internal Revenue Code of 1986.

S. 276

At the request of Mr. DURENBERGER, the names of the Senator from California [Mr. CRANSTON] and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of S. 276, a bill to establish a Department of Environmental Protection.

S. 318

At the request of Mr. JOHNSTON, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 318, a bill to facilitate the national distribution and utilization of coal.

S. 342

At the request of Mr. DANFORTH, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 342, a bill to amend the Internal Revenue Code of 1986 to provide that certain credits will not be subject to the passive activity rules, and for other purposes.

S. 355

At the request of Mr. RIEGLE, the names of the Senator from Massachusetts [Mr. KENNEDY] and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 355, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage credit certificates may be issued.

S. 357

At the request of Mr. SYMMS, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 357, a bill to provide that the Secretary of Transportation may not issue regulations reclassifying anhydrous ammonia under the Hazardous Materials Transportation Act.

S. 358

At the request of Mr. KENNEDY, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 358, a bill to amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization and for other purposes.

S. 359

At the request of Mr. NICKLES, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 359, a bill to prohibit the use of excess campaign funds for personal use.

S. 369

At the request of Mr. BOSCHWITZ, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 369, a bill to seek the eradication of the worst aspects of poverty in developing countries by the year 2000.

S. 384

At the request of Mr. CHAFEE, the names of the Senator from Nevada [Mr. REID] and the Senator from Indiana [Mr. LUGAR] were added as cosponsors of S. 384, a bill to amend title XIX of the Social Security Act to assist individuals with a severe disability in attaining or maintaining their maximum potential for independence and capacity to participate in community and family life, and for the other purposes.

SENATE JOINT RESOLUTION 32

At the request of Mr. PACKWOOD, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of Senate Joint Resolution 32, a joint resolution to designate February 2, 1989, as "National Women and Girls in Sports Day."

SENATE JOINT RESOLUTION 43

At the request of Mr. GRAHAM, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of Senate Joint Resolution 43, a joint resolution designating April 9, 1989, as "National Former Prisoners of War Recognition Day."

SENATE CONCURRENT RESOLUTION 6

At the request of Mr. ROCKEFELLER, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Concurrent Resolution 6, a concurrent resolution on the Essential Air Service Program.

SENATE RESOLUTION 57—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. BOREN, from the Select Committee on Intelligence, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 57

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under Rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Select Committee on Intelligence is authorized from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1989, through February 28, 1990, under this resolution shall not exceed $2,305,816, of which amount not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

(b) For the period March 1, 1990, through February 28, 1991, expenses of the committee under this resolution shall not exceed $2,353,721, of which amount not to exceed $30,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1990, and February 28, 1991, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of the Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1989, through February 28, 1990 and March 1, 1990 through February 28, 1991, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 58—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

Mr. NUNN, from the Committee on Armed Services, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 58

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Armed Services is authorized from March 1, 1989 through February 28, 1990, and March 1, 1990, through February 28, 1991, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1989, through February 28, 1990, under this resolution shall not exceed $2,728,969, of which amount (1) not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1990, through February 28, 1991, expenses of the committee under this resolution shall not exceed $2,785,811, of which amount (1) not to exceed $25,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $5,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1990, and February 28, 1991, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or for payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1989 through February 28, 1990, and March 1, 1990, through February 28, 1991, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 59—COMMENDING THE GOVERNMENT AND PEOPLE OF PAKISTAN ON THEIR RETURN TO DEMOCRACY

Mr. PELL (for himself, Mr. KENNEDY, Mr. LUGAR, Mr. SARBANES, Mr. HUMPHREY, Mr. KERRY, Mr. SIMON, Mr. MOYNIHAN, Mrs. KASSEBAUM, Mr. BOSCHWITZ, Mr. HARKIN, and Mr. DODD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 59

Whereas on November 16, 1988, the most free and fair elections in the history of Pakistan were held.

Whereas the elections were held in an orderly fashion and without any election-related fatalities.

Whereas the support of President Ghulam Ishaq Khan, of the Judiciary and of the Military was essential to the restoration of democracy in Pakistan.

Whereas the elections produced an electoral victory for Benazir Bhutto and the Pakistan People's Party.

Whereas Benazir Bhutto has shown extraordinary political and personal courage in the face of prolonged imprisonment and family tragedy.

Whereas Prime Minister Bhutto has moved swiftly to restore full human rights to the people of Pakistan by ordering the release of all political prisoners and the end of restrictions on the written and electronic media.

Whereas Prime Minister Bhutto has pledged to continue Pakistan's steadfast support of freedom for the Afghan people, has promised that Pakistan will not develop nuclear weapons, and has undertaken initiatives to improve relations with India.

Now therefore be it resolved, that the Senate of the United States:

(1) Commends the Government and people of Pakistan on the holding of free and fair elections and for the return to democracy.

(2) Congratulates Benazir Bhutto on her election as Prime Minister of Pakistan and wishes here a successful administration.

(3) Expresses its deep appreciation to President Ghulam Ishaq Khan, Chief Justice Nasrullah, and Chief of Army Staff Beg for their critical role in insuring the successful transition to democracy in Pakistan.

(4) Commends Prime Minister Bhutto for her prompt actions to free political prisoners and restore full human rights and expresses its support for her foreign policy statements on Afghanistan, nuclear weapons, and relations with India.

(5) Expresses its strong support for Pakistan's new democracy, reiterates its commitment to the security and independence of Pakistan, and affirms its willingness to assist the new government's efforts to address Pakistan's many economic and social problems.

● Mr. PELL. Mr. President, I send to the desk a resolution cosponsored by myself and Senators KENNEDY, LUGAR, SARBANES, HUMPHREY, KERRY, SIMON, KASSEBAUM, MOYNIHAN, BOSCHWITZ, DODD, and HARKIN to congratulate the government and people of Pakistan on the return of that country to democracy.

On November 16, 1988, Pakistan held a remarkable election. Throughout the country, tens of millions of Pakistanis lined up to cast ballots in the first free and fair elections in that country since the 1970's. As remarkable, the elections were conducted almost completely without violence. On November 16, 1988, no Pakistani died in election-related violence, an unprecedented achievement for south Asia, much less for Pakistan.

The election victor was Benazir Bhutto, a truly astonishing young woman. Educated at Harvard and Oxford, Ms. Bhutto returned to Pakistan in 1977 just weeks before her father's government was overthrown by General Zia ul-Haq. She was thrust into the fight to save her father's life, and following his execution, picked up his political mantle.

For her efforts she was imprisoned. In 1981, for most of the year she was held in solitary confinement in an unventilated class C cell. It was not until 1984 that she was released thanks in good measure to the efforts of many Members of Congress who worked with me to try to secure her freedom.

In the face of great adversity, Benazir Bhutto has shown astonishing courage. In 1988 things changed for her. In the space of 12 months, she got married, built a house, wrote a book, had a baby, ran a national election campaign, and took her first salaried job as Prime Minister of her country.

I think we all wish the new Prime Minister of Pakistan the greatest success. More importantly, however, we hope that the return to democracy will be irreversible in Pakistan. And in this regard, the United States has a part to play.

Pakistan's new democracy faces immense social and economic problems. The new government arrived to find the treasury empty and a tough new IMF austerity plan to be implemented. Over the years of military dictatorship, basic human needs have been ignored. As a result, literacy has declined in the last 20 years from 37 to 27 percent; each year 700,000 Pakistani children under the age of 5 die. The success of democracy will depend on the new government's ability to address these problems. The United States generously aided Pakistan in the years of dictatorship; we must do no less now that Pakistan is a democracy.●

● Mr. KENNEDY. Mr. President, I join my good friend from Rhode Island, Senator PELL and others, in introducing a resolution commending the Government and people of Pakistan for the return to democracy in their country. It is entirely fitting that one of the first actions of the 101st Congress will be to join together in praise of the newest member of the growing family of democracies in Asia. I urge my colleagues to support this important resolution and to ensure its swift and overwhelming passage.

Nearly a decade ago, the deposed Pakistani Prime Minister Zulfikar Ali Bhutto was sentenced to death and executed by General Zia ul-Haq. His eldest daughter and protege, Benazir Bhutto, assumed control of her father's People's Party but was persecuted by General Zia and forced to spend the next 7 years in jail, house arrest, and exile. Yet during that time, Benazir never gave in to her oppressors and never gave up on her dream of democracy for Pakistan.

Directly or indirectly, Pakistan has been ruled longer by the military than by civilians since the founding of that country over four decades ago. But tide of democracy that swept across the Philippines, that touched the shores of South Korea was lapping at the shores of Pakistan. And the people of Pakistan's yearning for justice, freedom, and democracy grew into an unyielding determination to achieve those ideals.

Bhutto returned to Pakistan in 1986 and ignited the hopes and dreams of the Pakistani people for freedom. Undaunted by the social concerns of many who objected to a woman's involvement in politics in a Moslem country, Benazir quickly came to symbolize the road to a better life for the majority of the impoverished Pakistani people. She gave hope to the children who cannot read, to the father who has no job, to the woman who cannot exercise her basic rights. She gave a new hope to a nation yearning to enjoy the basic rights and liberties of a free country.

The growing desire for change pressured General Zia to schedule elections for the fall of 1988. But he also moved promptly to ensure those elections would not be fair by prohibiting party based elections and disbanding the cabinet and national assembly. The people of Pakistan faced monumental obstacles in their quest for freedom.

Suddenly, in a tragic and as yet unexplained plane crash, General Zia and many of his top military men were killed. America also lost one of our finest citizens and dedicated public servants, Arnold Raphel.

That tragic and brutal act of fate, however, changed the landscape of Pakistani politics. The democracy that had been but a distant hope suddenly became a real and obtainable possibility. And Benazir Bhutto quickly reached out to all segments of Pakistani society—the poor, the businesses, the landed gentry—and instilled in them a confidence in her ability not only to lead a political party, but to govern a nation.

And in a tribute to the sophistication of the Pakistani people and their unwavering determination to bring democracy to this country, the election campaign was calm, free, and fair. With Benazir in the lead, the people broke the long cycle of military control and brutal election violence known so well to the people of that nation. Finally, on November 16, 1988, free and fair elections were held in Pakistan for the first time in nearly two decades. In what will surely become a watershed in Asian politics, this Moslem nation of 100 million Pakistanis voted to return their nation to the family of democracies—and they choose as their leader, 35-year-old Benazir Bhutto—the first woman to head a sovereign Moslem nation.

I share a special pride in the accomplishments of this extraordinary woman. For as a young woman, she came to Massachusetts to receive her education in international relations at Harvard University. Benazir has many friends in Massachusetts and across this Nation who know she will always

remain a true friend of the United States.

The new Pakistani Prime Minister faces serious challenges in the day ahead. The democratic transition in Pakistan is fragile at best and she must keep a coterie of senior political figures and military men in close check. The economy is fragile and the future of neighboring Afghanistan is uncertain. The questions of nuclear proliferation must be resolved.

However, Prime Minister Bhutto has already demonstrated her ability to govern and take control. In an early test of her power, the military had given preliminary permission for a plane to land in Pakistan carrying Soviet gunmen without her consent or knowledge. Upon learning of the decision, she acted swiftly and decisively to prevent the terrorists from landing in her country.

Today we stand at the threshold of a new era in Asia where justice and democracy reigns. I join with my colleagues in commending the people of Pakistan and Benazir Bhutto for their historic and monumental accomplishments. The resolution before us sends a clear message that the people of the United States stand firmly behind this progress and stand ready to support it.

Let our two nations work together to solidify these democratic achievements, to promote peace in Afghanistan, to better Indo-Pakistani relations, and to stem the spread of nuclear weapons and materials. Let us act today to promote these goals by approving the important resolution before us.●

SENATE RESOLUTION 60—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN, from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 60

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Governmental Affairs is authorized from March 1, 1989, through February 28, 1991, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1989, through February 28, 1990, under this resolution shall not exceed $4,951,018, of which amount (1) not to exceed $49,326 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $2,470 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1990, through February 28, 1991, expenses of the committee under this resolution shall not exceed $5,501,556, of which amount (1) not to exceed $49,326 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $2,470 may by expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3 (a) The committee, or any duly authorized subcommittee thereof, is authorized to study or investigate—

(1) the efficiency and economy of operations in all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of government funds in transactions, contracts, and activities of the government or of government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(2) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(3) organized criminal activities which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(4) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud and the use of offshore banking and corporate facilities to carry out criminal objectives; and

(5) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(A) The effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(B) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(C) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(D) legislative and other proposals to improve these methods, processes, and relationships,

(6) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and management of energy shortages including, but not limited to, their performance with respect to—

(A) the collection and dissemination of accurate statistics on fuel demand and supply;

(B) the implementation of effective energy conservation measures;

(C) the pricing of energy in all forms;

(D) coordination of energy programs with State and local government;

(E) control of exports of scare fuels;

(F) the management of tax, import, pricing, and other policies affecting energy supplies;

(G) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(H) the allocation of fuels in short supply by public and private entities;

(I) the management of energy supplies owned or controlled by the Government;

(J) relations with other oil producing and consuming countries;

(K) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(L) research into discovery and development of alternative energy supplies, and

(7) the efficiency and economy of all branches and functions of government with particular reference to the operations and management of Federal regulatory policies and programs: *Provided*, That, in carrying out the duties herein set forth, the inquiries of this committee or any subcommittee thereof shall not be deemed limited to the records, functions, and operations of any particular branch of the Government; but may extend to the records and activities of any persons, corporation, or other entity.

(b) Nothing contained in this section shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946, as amended.

(c) For the purpose of this section the committee, or any duly authorized subcommittee thereof, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, is authorized, in its, his, or their dis-

cretion (1) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate, (4) to administer oaths, and (5) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(d) All subpoenas and related legal processes of the committee and its subcommittee authorized under Senate Resolution 313 of the Ninety-ninth Congress, second session, are authorized to continue.

SEC. 4. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 1990, and February 28, 1991, respectively.

SEC. 5. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of long distance telephone calls, or for the payment of stationery supplies purchased through the Keeper of Stationery, United States Senate.

SEC. 6. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1989, through February 28, 1990, and March 1, 1990, through February 28, 1991, to be paid from the Appropriations account for "Expenses of Inquiries and Investigations."

SENATE RESOLUTION 61—RELATING TO FIGHTER SALES TO JAPAN

Mr. DIXON (for himself, Mr. HELMS, Mr. BINGAMAN, Mr. D'AMATO, Mr. BYRD, Mr. BURNS, Mr. FORD, Mr. GORE, Mr. HEINZ, Mr. HOLLINGS, Mr. LOTT, Mr. MOYNIHAN, Mr. PRYOR, Mr. RIEGLE, Mr. RUDMAN, Mr. SANFORD, Mr. SHELBY, Mr. WIRTH, Mr. GRASSLEY, Mr. COHEN, and Mr. HUMPHREY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 61

Whereas the United States world market position in many manufacturing and high-technology areas, such as semiconductors, has deteriorated because of earlier such transfers of American technology to Japan in other industries;

Whereas the United States has a large trade deficit with several countries, particularly with Japan (more than 50 billion dollars in 1988);

Whereas selling Japan advanced fighter plane technology represents a significant leap in capability for Japan's aerospace industry, and may eventually enable it to compete with U.S. aircraft manufacturers in the world market;

Whereas the Japanese can purchase General Dynamic's F-16 at one-third the cost of the FSX and thus reduce Japan's trade surplus with the United States; and

Whereas a strong American industrial base is critical to the security and national defense of the United States, and the best interest of the United States can only be served by thoroughly examining the long-term impact of the FSX program on the United States industrial base: Now, therefore be it

Resolved, That (a) the Senate has strong reservations about the long-term impact on the United States aerospace industry that may result from the sale of United States advanced fighter technology to Japan's Mitsubishi Heavy Industries.

(b) It is the sense of the Senate that the President should—

(1) delay notifying Congress under section 36 of the Arms Export Control Act of the sale of General Dynamics F-16 fighter aircraft technology to Japan's Mitsubishi Heavy Industries for 60 days while a further review is undertaken by the Departments of State, Commerce, Labor, Energy, the CIA, DoD, Office of Science and Technology Policy, and the Office of the United States Trade Representative, and;

(2) examine closely the program's long-term impact on the health and competitiveness of the United States aerospace industry, and;

(3) submit a report containing his findings within sixty days of the passage this resolution to the Chairmen of the U.S. Senate Committees on Foreign Relations and Armed Services.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

● Mr. DIXON. Mr. President, last week 11 Senators and I sent a letter to President Bush asking him to thoroughly examine the pending Japanese-United States FSX Fighter Co-Development Program for its long-term impact, on the health and competitiveness of American Aerospace industries. Several of my colleagues and I are concerned that the transfer of United States F-16 fighter technology now would represent a substantial boost in the development of Japan's aerospace industry. Consequently, this could bolster Japan's aerospace competitiveness in future markets. We are also concerned that the Commerce Department was not consulted by the Defense Department on the long-term industry and trade aspects of this program, despite language in the 1988 Defense Authorization Act calling for consultation, which was introduced by my good friend Senator JEFF BINGAMAN. I am disturbed by the fact that this program is about to go into effect without an exhaustive review of the long-term impact on our aerospace industry.

Now, Mr. President, I understand that, according to Defense News, the Department of Defense "hopes to resolve by Friday" the remaining issues pertaining to the sale of United States F-16 fighter technology to the Japanese. I certainly don't believe, and I'm sure several of my colleagues don't believe, that the administration can conduct an extensive review of the FSX program in just 7 days. I agreed with the senior Senator from North Carolina, my friend Senator HELMS, when he asked Secretary of State-designate James Baker to have the administration review this program for 60 days.

In my view, finalizing this complicated agreement with Japan during a leadership transition period probably couldn't have come at a worse time. The current administration did not negotiate the FSX deal, but has the responsibility of making the final decision without the benefit of having participated in the negotiations. This problem is compounded by pressures to continue this deal before moneys budgeted for this program by the Japanese Government are lost on March 31.

Japanese budget pressures aside, my Senate colleagues and I believe that a fresh and in-depth look at this FSX program by the new administration is needed. I want to reemphasize our serious concerns about the impact this program may have on the health of our aerospace industry as expressed in our letter a week ago and by my statement about this deal submitted for the RECORD last Thursday. To insure that there can be no doubt about the serious reservations we have about the benefits of this deal, Mr. President, I would like to introduce a sense of the Senate Resolution that expresses our reservations about the FSX program as it now stands. This resolution asks that the President delay notifying Congress of his intent to sell F-16 fighter technology to Japan for 60 days while a thorough review of the FSX program is conducted by several executive offices, to include the Commerce Department. The resolution also asks that the President report his findings to Congress.

To conduct an exhaustive study of this program is the least we can do for taxpayers who have paid billions of dollars to develop F-16 technology and for those in the aerospace industry who have worked hard to make the United States the undisputed world leader in this industry. They deserve a comprehensive review of this deal, not a parochial perspective provided by just the Departments of Defense and State. This is one area that we can improve on by following methods used by the Japanese. The Japanese Ministry of International Trade and Industry is actively involved in both civilian and military domestic production programs and influences decisions pertaining to them. We need to follow this example by insuring that the Commerce Department is extensively involved in codevelopment and coproduction programs such as FSX. Congress obviously made it clear in last year's authorization act that this should be done, but apparently the Defense Department wasn't listening.

And finally Mr. President, as a reminder to all of us, if we do not closely look at this issue from an aerospace competitive standpoint, the Japanese

certainly will. To quote from a GOA, study on the United States F-15 coproduction program with Japan, the Japanese "Ministry of International Trade and Industry recognizes that the F-15 and P-3C programs, as well as commercial joint ventures, provide the industry new technology." The study also pointed out that the "Ministry of International Trade and Industry has stated that technological developments of both civil and military aircraft mutually supplement and complement each other, because development and manufacturing techniques of both are closely related, and technological spinoffs can be mutually anticipated". In other words, the Japanese intend to extract from the FSX program any manufacturing methods or technology that may benefit the development of their commercial or defense industries. The Japanese are closely examining the FSX program to ensure the long-term health and competitiveness of their aerospace industry. So should we.●

● Mr. PRYOR. Mr. President, I want to join my colleagues in asking President Bush to postpone and more carefully review the sale of F-16 fighter aircraft technology worth an estimated $7 billion to Japan to aid the development of their so-called FSX aircraft.

The aerospace industry is one of the last areas in which America holds a predominant market position. In case after case, foreign industries have taken advantage of American industrial technology without having to foot the bill for research and development. Frequently the foreign companies are subsidized by their Government. In the case of TV's, VCR's and semiconductors, foreign industries have turned these advantages into devastating attacks on U.S. industries.

Mr. President, that is exactly what I do not want to have happen with our aerospace technology, especially the technology for our most advanced and successful fighter aircraft, the F-16. All U.S. industries must learn to effectively compete on the world market, but they should have the opportunity to do so on a level playing field.

I would note that today many of our allies including Japan, are not carrying their fair share of the common allied defense burden. Many of us are asking why, in the current world economy, the United States continues to carry the lion's share of that burden.

The United States spends billions of dollars to defend allies around the world. To do so, we spend roughly 6 percent of our GNP on our military. Japan, a country that makes $32 billion a year on its car exports to America alone, spends roughly 1 percent of its growing GNP on defense.

Instead of Japan spending its limited defense funds on this 10-year fighter development project, that money could be put to immediate work bolstering Japan's current defenses.

Mr. President, it cost the American taxpayers about $7 billion to develop the F-16 fighter. I am not saying we should not help our allies with that defense knowledge. But we can and should do so in a way that will not injure U.S. economic competitiveness. In fact, America offered to sell the F-15, the F-18, or the F-16 to Japan outright, which would have protected our technology, provided Japan with the finest aircraft money can buy, and eased United States-Japan trade deficit. But State and Defense Department negotiators allowed the Japanese to prevail in their wish to receive the underlying F-16 technology.

Mr. President, I do not think that Japan or any other country would strike a deal that might sell one of their industries short in the future. On its face the FSX deal we are about to consummate could do just that. Accordingly it makes sense for the Bush administration and Congress to take a closer look at the issue.

Our resolution calls on the Bush administration to delay the technology sale announcement for 60 days during which the long term impact of the sale can be studied more thoroughly. I urge its adoption.●

AMENDMENTS SUBMITTED

OIL AND GAS LEASING AND DEVELOPMENT ON THE COASTAL PLAIN OF THE ARCTIC NATIONAL WILDLIFE REFUGE

JOHNSTON (AND McCLURE) AMENDMENT NOS. 3 THROUGH 5

(Ordered referred to the Committee on Energy and Natural Resources.)

Mr. JOHNSTON (for himself and Mr. McCLURE) submitted three amendments intended to be proposed by them to the bill (S. 406) to authorize competitive oil and gas leasing and development on the Coastal Plain of the Arctic National Wildlife refuge in a manner consistent with protection of the environment, and for other purposes; as follows:

AMENDMENT No. 3

S. —— is amended by inserting after title I the following new title, renumbering the remaining titles and sections as appropriate and making all necessary conforming changes:

"TITLE II. CONGRESSIONAL DETERMINATION OF COMPATIBILITY

"SEC. 201. CONGRESSIONAL DETERMINATION.—Congress hereby determines that oil and gas activities authorized and conducted on the Coastal Plain pursuant to this Act so as to result in no significant adverse effect on fish and wildlife, their habitat, and the environment, shall be deemed to be compatible with the major purposes for which the Arctic National Wildlife Refuge was established and no further findings or determinations of compatibility by the Secretary under the National Wildlife Refuge System Administration Act are required to implement this Congressional determination."

AMENDMENT No. 4

S. —— is amended by inserting after section 202 the following new section 203, renumbering the remaining sections as appropriate, and making all necesasry conforming changes:

"SEC. 203. ADEQUACY OF DEPARTMENT OF THE INTERIOR'S LEGISLATIVE ENVIRONMENTAL IMPACT STATEMENT.—(a) The 'Final Legislative Environmental Impact Statement' (April 1987) on the Coastal Plain prepared pursuant to section 1002 of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 3142), and section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), is hereby found by the Congress to be adequate to satisfy the legal requirements under the National Environmental Policy Act of 1969 with respect to actions authorized to be taken by the Secretary to develop and promulgate the regulations for the establishment of a leasing program authorized by this Act prior to conducting the first lease sale.

"(b) Except as provided in subsection (a) of this section, nothing in this Act shall be considered or construed as otherwise limiting or affecting in any way the applicability of section 102(2)(C) of the National Environmental Policy Act of 1969 to all phases of oil and gas leasing, exploration, development and production and related activities conducted under or associated with the leasing program authorized by this Act, nor shall anything in this Act be considered or construed as in any way limiting or affecting the applicability of any other Federal or State law relating to the proteciton of the environment.".

AMENDMENT No. 5

S. —— is amended by:

(1) redesignating title III as "Coastal Plain Environmental Protection";

(2) redesignating existing section 301 as section 301(a) and adding a new subsection (b) thereafter as follows:

"(b) SITE-SPECIFIC ASSESSMENT AND MITIGATION.—The Secretary shall also require, with respect to any proposed drilling and related activities, that—

"(1) a site-specific analysis be made of the probable effects, if any, that the drilling or related activities will have on fish and wildlife, their habitat, and the environment; and

"(2) a mitigation plan be implemented to avoid, minimize or compensate for any adverse effect assessed under paragraph (1) of this subsection.".

(3) inserting after section 301 the following new section 302 and renumbering the remaining sections as appropriate:

"SEC. 302. REGULATIONS TO PROTECT THE COASTAL PLAIN'S FISH AND WILDLIFE RESOURCES, SUBSISTENCE USERS AND THE ENVIRONMENT.

"(a) Prior to implementing the leasing program authorized by title II of this Act, the Secretary shall prepare and promulgate regulations, lease terms, conditions, restrictions, prohibitions, stipulations, and other measures designed to ensure that the activities undertaken in the Coastal Plain authorized by this Act are conducted in a manner consistent with the purposes and environmental requirements of this Act.

"(b) The proposed regulations, lease terms, conditions, restrictions, prohibitions, and stipulations for the leasing program authorized by title II of this Act shall require compliance with all applicable provisions of Federal and State environmental law and shall also require:

"(1) as a minimum, the safety and environmental mitigation measures set forth in items one through twenty-nine (1 through 29) at pages 167 through 169 of the "Final Legislative Environmental Impact Statement" (April 1987) on the Coastal Plain;

"(2) seasonal limitations on exploration, development and related activities, were necessary, to avoid significant adverse effects during periods of concentrated fish and wildlife breeding, denning, nesting, spawning and migration;

"(3) that exploration activities, except for surface geological studies, be limited to the period between approximately November 1 and May 1 and that exploration activities will be supported by ice roads, winter trails with adequate snow cover, ice pads, ice airstrips, and air transport methods: *Provided*, That such exploration activities may be permitted at other times if the Secretary determines, after affording an opportunity for public comment and review, that special circumstances exist necessitating that exploration activities be conducted at other times of the year and he finds that such exploration will have no significant adverse effect on the fish and wildlife, their habitat, and the environment of the Coastal Plain;

"(4) design safety and construction standards for all pipelines and any access and service roads that—

"(A) minimize adverse effects upon the passage of migratory species such as caribou to the maximum extent possible; and

"(B) minimize adverse effects upon the flow of surface water by requiring the use of culverts, bridges and other structural devices;

"(5) prohibitions on public access and use on all pipeline access and service roads;

"(6) stringent reclamation and rehabilitation requirements, consistent with the standards set forth in this Act, requiring the removal from the Coastal Plain of all oil and gas development and production facilities, structures and equipment upon completion of oil and gas production operations: *Provided*, That the Secretary may exempt from the requirements of this paragraph those facilities, structures or equipment which the Secretary determines would assist in the management of the Arctic National Wildlife Refuge and which are donated to the United States for that purpose;

"(7) appropriate prohibitions or restrictions on access by all modes of transportation;

"(8) appropriate prohibitions or restrictions on sand and gravel extraction;

"(9) consolidation of facility siting;

"(10) appropriate prohibitions or restrictions on use of explosives;

"(11) avoidance, to the extent practicable, of springs, streams and river systems; the protection of natural surface drainage patterns, wetlands, and riparian habitats; and the regulation of methods or techniques for developing or transporting adequate supplies of water for exploratory drilling;

"(12) avoidance or reduction of air traffic-related disturbance to fish and wildlife;

"(13) treatment and disposal of hazardous and toxic waste, solid waste, reserve pit fluids, drilling muds and cuttings, and domestic wastewater, in accordance with applicable Federal and State environmental law;

"(14) fuel storage and oil spill contingency planning;

"(15) research, monitoring and reporting requirements;

"(16) field crew environmental briefings;

"(17) avoidance of significant adverse effects upon subsistence hunting, fishing, and trapping by subsistence users;

"(18) compliance with applicable air and water quality standards;

"(19) appropriate seasonal and safety zone designations around well sites within which subsistance hunting and trapping would be limited;

"(20) reasonable stipulations for protection of cultural and archeological resources; and

"(21) all other protective environmental stipulations, restrictions, terms, and conditions deemed necessary by the Secretary.

"(c) In preparing and promulgating regulations, lease terms, conditions, restrictions, prohibitions, and stipulations under this section, the Secretary shall consider:

"(1) the environmental protection standards which governed the initial Coastal Plan seismic exploration program (50 Code of Federal Regulations 37.31-33);

"(2) the land use stipulations for exploratory drilling on the KIC-ASRC private lands which are set forth in Appendix 2 of the August 9, 1983, agreement between Arctic Slope Regional Corporation and the United States; and

"(3) the operational stipulations for Koniag ANWR Interest lands contained in the draft Agreement between Koniag, Inc. and the United States of America on file with the Secretary of the Interior on December 1, 1987.".

(4) Inserting after section 304 the following new section 305 and renumbering the remaining sections as appropriate:

"SEC. 305. ENVIRONMENTAL STUDIES.—In addition to any other environmental studies required by law, subsequent to exploring or developing of any area or region of the Coastal Plain, the Secretary shall conduct such additional studies to establish environmental information as he deems necessary, and shall monitor the human, marine, and coastal environments of such area or region in a manner designed to provide information which can be used for comparison with any previously collected data for the purpose of identifying any effects on fish or wildlife and their habitat and any significant changes in the quality and productivity of such environments, for establishing trends in the areas studied and monitored, and for designing experiments to identify the causes of such effects or changes."

(5 Making all necessary conforming changes.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BUMPERS. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and National Resources.

The hearing will take place on February 28, 1989, beginning at 9:30 a.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on two bills currently pending before the Subcommittee. The measures are:

S. 237, a bill to reform the Tongass Timber Supply Fund; and

S. 346, the Tongass Timber Reform Act.

Because of the large numbers of people wishing to testify and the limited time available for the hearing, witnesses may testify by invitation only. However, anyone wishing to submit written testimony to be included in the hearing record is welcome to do so. Those wishing to submit written testimony should send two copies to the Subcommittee on Public Lands, National Parks and Forests, SD-364, Washington, DC 20510. The subcommittee intends to have additional hearings on these bills in southeast Alaska later this year.

For further information regarding the hearing, please contact Beth Norcross of the subcommittee staff at (202) 224-7933.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on Thursday, February 23, 1989, at 9:30 a.m. in SR-332 to receive testimony from the General Accounting Office on trading practices in the commodity futures markets.

For further information, please contact Ken Ackerman of the committee staff at 224-2035.

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on Monday, March 13, 1989, at 9:30 a.m. in Macon, GA, to receive testimony on tax issues affecting the timber industry.

For further information, please contact Bob Redding of Senator FOWLER's staff at 224-3643.

ADDITIONAL STATEMENTS

L. CARY BITTICK

● Mr. NUNN. Mr. President, I rise today to pay tribute to an outstanding law enforcement officer, L. Cary Bittick, executive director of the National Sheriffs' Association. Cary is retiring on March 1, 1989. Cary's career as a law enforcement officer began in 1961, when he was elected sheriff of Monroe County, GA, a position he held for 22 years. His family has a long history in Monroe County law enforcement with his father serving as sheriff prior to 1961 and his son as the currently elected sheriff.

As sheriff, Cary served as a member of the National Sheriffs' Association Board of Directors and its executive

committee for over 10 years. He served as its president from 1981 to 1982.

As a leader in the law enforcement community, Cary has received many exemplary citations. He has served on many national committees such as the National Commission on Accreditation for Law Enforcement Agencies; the Advisory Committee on State and Local Training at the Federal Law Enforcement Training Center, and as a member of the advisory board of the National Crime Information Center.

Throughout the last 28 years, he has served diligently in his law enforcement efforts at the local and national levels bringing about many innovative and progressive changes. Cary's strong leadership and commonsense approach to challenges facing criminal justice practitioners at all levels has served as an encouragement to all of us.

Upon retiring, Cary intends to remain active in local and national law enforcement activities.

I am sure my colleagues join me in commending him for his dedicated and loyal service and wishing him the best in his retirement and the future.●

THE RECENT DEPOSIT FEE PROPOSAL

● Mr. MURKOWSKI. Mr. President, few problems are more pressing as we begin this 101st Congress than the mounting crisis that exists in this Nation's savings and loan industry. Conservative estimates put the total cost of funding our insolvent deposit insurance fund at $50 billion, while several estimates envision the ultimate cost to be closer to $100 billion. In the face of a crisis of this magnitude, the American people demand that changes be made and that responsible decisionmaking take place. The recent proposal to place a fee on deposits is not only an ill-conceived solution to the problem, but it flies in the face of the very thing we should be encouraging—increasing this Nation's dangerously low personal savings rate.

CRITICISMS OF PROPOSAL

Mr. President, we are told that this deposit fee proposal will generate over $7 billion a year for the ailing deposit insurance fund, and that these moneys will adequately fund the deposit insurance system. This may be true, but lets not lose sight of the forest for the trees. The immediate effect of placing a fee on deposits will be to send money out of banks and savings and loans, and into mutual funds, money market accounts and other uninsured investments. As a nation that has a personal savings rate of less than 4 percent of gross national product, the last thing we should do is establish disincentives for people to save. It seems to me that this proposal for curing for the savings and loan crisis may well have side effects that are worse than the disease.

I must admit Mr. President, despite the seriousness of the problems that we face regarding the savings and loan industry, I am somewhat amused at the debate that has been going on in this town over what the Treasury's proposal should be called. You would hardly know we were talking about the same subject when you hear some people refer to the proposal as a deposit fee, while others call it anything from an insurance premium, user fee to a tax increase. Semantics aside, let me just go on record as stating that this proposal—under any name—is simply a bad idea that should die a swift and certain death.

PROPOSED SOLUTIONS

Mr. President, in the weeks and months ahead Congress and the administration will be charged with the responsibility of finding a bipartisan, long term solution to the savings and loan crisis. Merely finding fault with other peoples solutions will not be enough. The American people demand that we return this Nation's financial institutions to sound footing.

One proposal which merits our careful consideration is the splitting up of the duties of the Federal Home Loan Bank Board to separate the insurance and regulation duties from those involving the chartering of thrifts and the promotion of home mortgage lending. It seems to me that an inherent conflict of interest exists in any institution in which the promotion and development of an industry rests in the same body that is responsible for its oversight and regulation.

By the same token, while I do believe that we should separate the contrasting duties of the Bank Board, I do not believe that we should eliminate the Bank Board altogether by merging it into the FDIC. All the fault for the savings and loan crisis cannot be placed at the door of the Bank Board. Rising interest rates, plummeting oil and real estate prices in certain energy dependent regions, lax State regulation, mismanagement, and Federal deregulation all contributed to the inevitable crunch that thrifts experienced as they attempted to balance the constraints of holding long-term, fixed-rate home mortgage portfolios with the mounting pressure to offer higher and higher interest rates to depositors in order to attract new capital.

In our attempt to find solutions to these problems, the Congress and the administration should not proceed merely with a "heads will roll" attitude. Symbolic, draconian measures will not solve the savings and loan crisis—sound legislative and regulatory policy will.

Later today I will be introducing legislation which I believe will be a constructive first step in reforming the banking and thrift industry. My bill will seek to curtail the use of federally insured brokered deposits by limiting the amount of insured deposits that can be placed by a broker in a troubled financial institution to $100,000 per broker, per institution. These deposits, which are presently insured up to $100,000 per depositor, per institution, serve to drain the FSLIC and FDIC insurance funds, inflate banking costs, take money away from local communities, encourage funds to flow to poorly managed and financially troubled institutions, and conflict with the intended purpose of Federal deposit insurance.

WORK WITH ADMINISTRATION

Mr. President, I understand that in the next few days Secretary Brady and his staff at Treasury will be compiling a list of proposals to address the savings and loan crisis. I look forward to receiving these proposals and I am confident that Secretary Brady will show the leadership and initiative that this situation requires.

Before coming to the Senate I had the privilege of spending over 20 years in the banking industry. Perhaps that is why I am so deeply troubled by the current state of our financial institutions. I have seen first hand the vital role that banks and thrifts play in community development, entrepreneurial initiative and home ownership. I am confident that if the Congress and the administration work in a bipartisan fashion, focusing on long term solutions and not quick fixes, that we can restore the banking and thrift industries to financial stability.●

TRIBUTE TO STATE SENATOR FRANCIS J. McMANIMON

● Mr. LAUTENBERG. Mr. President, I rise to honor State Senator Francis J. McManimon, assistant majority leader from the 14th District of New Jersey. A resident of Hamilton Township, he has also served as its superintendent of parks and recreation since 1961. After serving in this capacity for 28 years he will be retiring on March 1 to devote more time to his senatorial duties and family.

As a State senator also serving in township government, he has shown that cooperation with the community can be a nonpartisan effort. For the past 13 years he has served as parks and recreation superintendent under a Republican township and previously by one controlled by Democrats.

During his tenure as superintendent, a policy called cosponsorship has been implemented. The township maintains fields and provides officials, and private groups organize leagues and teams. Under his direction, cooperation among citizens of the community has contributed to an excellent park system and recreation programs.

Senator McManimon has faithfully served the State of New Jersey since 1971 when he was elected to the State

assembly where he served until 1981, when he was elected to the State senate. He has served as chairman of the Senate Ways and Means Committee, the Senate Select Committee on Veterans' Affairs, and the Senate Intergovernmental Relations Committee. In addition he is vice chairman of the Institutions, Health and Welfare Committee, a member of the Transportation and Communications Committee and the Independent Authorities Committee and the Juvenile Delinquency Commission.

Franny was a moving force behind the creation of the New Jersey Department of Military and Veterans' Affairs. His commitment to the welfare of New Jersey's veterans has been well recognized. Known as "Mr. Veteran," he has been the recipient of many community awards, including the Veterans of Foreign Wars and the American Legion. He has been honored by the State Association of Elected Officials and the New Jersey Association of Recreation and Physical Education. Franny has also served his community through outstanding constituent work and by looking out for the little guy.

I congratulate Franny for his devoted service to his community and the State of New Jersey. As he retires from his position as superintendent of parks and recreation, the people of Hamilton Township can take consolidation in the fact that he continues to serve them ably in the State senate. I join his family, friends, and colleagues in wishing him all the best for continued success and happiness in the future.●

HELP FOR TROUBLED CHILDREN

● Mr. COHEN. Mr. President, I would like to draw the attention of my colleagues to the efforts that concerned people in the State of Maine have undertaken to help children with special needs.

On January 29, the New York Times featured an article by Lyn Riddle concerning a grassroots campaign on the part of the Coalition for Children with Special Needs, a group made up of Maine teachers, social workers, State legislators, and others, who are working to benefit troubled children. The resolve of the group is well characterized by the man who brought the group together, Mr. John Rosser, executive director of the Spurwink School, a private, nonprofit organization for troubled and handicapped children. Says Mr. Rosser, "We've studied this thing to death; let's get something done."

As the article states, Maine—like many other States around the Nation—is seeing a growing number of children who have been neglected or physically abused. These children often become violent and disruptive and need constant supervision. The coalition began by publicizing the plight of disturbed children who were living on the streets, in facilities unable to meet their needs, or in homes where they remained subject to abuse. Currently, the coalition is lobbying the legislature for more resources to improve foster care programs.

Mr. President, the problems of trouble children are too often ignored or left to grow into problems of troubled adults. I applaud what my fellow Mainers are doing to help children in desperate circumstances. I ask that this article be printed in the RECORD.

The article follows.

[From the New York Times, Jan. 29, 1989]

LOBBY EXTENDS A HAND TO CHILDREN IN TROUBLE

(By Lyn Riddle)

BIDDEFORD, ME.—When an 11-year-old boy was charged with killing his baby sitter by setting his house ablaze here in early January, some Maine residents decided it was time to stop studying the problems of seriously troubled children and start helping them.

A group of 100 social workers, teachers, legislators and others who deal with disturbed children gathered recently to set in motion a grassroots effort. The group, the Coalition for Children with Special Needs, is lobbying the State Legislature for more money to help abused and neglected children live productive lives.

"We've studied this thing to death; let's get something done for these children," said John Rosser, who brought the group together. "Year after year, there's always some other issues that need to be addressed and children with special needs get pushed aside. They don't vote. They're not necessarily nice kids. People don't like these kids."

PEOPLE WHO ARE CONCERNED

Harvey Berman, director of program operations at the Spurwink School, a private, nonprofit organization with programs for troubled and handicapped children in three states, including Maine, said the coalition was unusual because no one was looking out for his own interest.

"These are people who are concerned about children," he said. "It's not accidental that the prisons are overloaded. It's clearly a result of a lack of attention paid to troubled children."

Like many other states around the nation, Maine is seeing a growing number of children who have been neglected or physically abused. They are often violent and disruptive and need constant supervision.

CHILDREN WHO DON'T FIT IN

The situation gained attention in November, when social workers made public a list of 100 disturbed children in southern Maine who were living in unsuitable places: on the streets, in foster homes ill-equipped to handle their problems, in mental institutions and even in their own homes, where they had been subjected to abuse.

Social workers say the figure represents one-seventh of all children in state custody in southern Maine and is indicative of a system in crisis.

Penny Burns, a social worker in Portland, said she had even seen a seriously disturbed 4-year-old. "It was difficult to place her because she was so out of control," she said of the child. "Social workers quit, not because of the money, but because of situations like this. It drains you emotionally."

Social workers say one problem is that the system was developed in a time when foster parents' responsibility was limited to the physical well-being of children. Now, they say, the state relies too heavily on foster parents, many of whom are working without much training in caring for abused and neglected children. Fewer still understand how to deal with serious emotional problems.

"Many of these children don't fit into anyone's family," said Margaret Goodspeed, a social worker here.

Maine has 8,000 children in the protective services system and 1,807 are in state custody. A total of 1,031 are in foster homes, 344 are living alone or with relatives or friends, 252 are in institutions, 71 are in the Maine Youth Center and 67 are in adoptive homes, said Peter Walsh, the director of the Bureau of Social Services. He said caseworkers were not sure of the whereabouts of 42 children.

"I do not believe the whole foster care system is in crisis," said Mr. Walsh. "There are some serious problems with some parts of it and we have to fix the problems."

He said his staff had reviewed the list of children supplied by the social workers and concurred that the state had not had the proper facilities for them. He has written a report to the Commissioner of Human Services recommending ways to reallocate the state's resources to better treat these children.

ADDITIONAL FUNDS REQUESTED

In addition, Gov. John R. McKernan Jr., has asked the State Legislature to appropriate $1.2 million more than the $30 million the state already spends on child welfare to give foster parents more pay and children more money for clothing.

"That's a good start, but that's dealing with only one part of the needs," said Mr. Rosser. "You can't fix it by putting money only in one part."

Social workers in the coalition said more money was needed for a treatment center to house children entering the system so that they could be evaluated for proper placement. The group is also calling for more foster homes in which caring for the children is the parents' full-time job. The state has 171 professional foster homes.

"We're asking for people in the community, if they hate seeing kids on street corners or hearing about it, give us the tools to do our job: appropriate money," said Charlotte Bailey McPherson, a social worker in Portland.

Mr. Rosser, who is the executive director of the Spurwink School and a former Commissioner of Mental Health in Maine, said he would like to see children's services handled by a single agency, instead of spread over four.

Some people would think the incident involving the 11-year-old was an isolated case, said Mr. Berman. "But there are many people out there who have the potential of extreme behavior," he said. "Why it doesn't happen more frequently is a mystery."

Some have said the boy, who was charged as a juvenile in the baby sitter's death, was failed by the system because officials did not find appropriate care for him soon enough, even after his mother said she could no longer control him and asked for help.

But Mr. Walsh said: "This wasn't a boy who fell through the cracks." There was no reason to take him from his home because there was no evidence he had been abused

or neglected and he had been scheduled to go to a residential center in late January, Mr. Walsh said.

"We don't have a crystal ball to say what will happen with any of these kids," said Mr. Walsh. "We make a judgment on whether he is in jeopardy. Hindsight is always 20-20. The problem here was we don't know what works with these children."●

SEVENTY-FIRST ANNIVERSARY OF ESTONIA'S PROCLAMATION OF INDEPENDENCE

● Mr. LEVIN. Mr. President, later this month we will commemorate the 71st anniversary of Estonian independence. On February 24, 1918, the Estonians were the first of the three Baltic nationalities to declare an autonomous self-governing state. We remember this significant event in Estonian history, we marvel at the spirit of the Estonian people, and we share in the pride of Estonians around the world in the resilience of Estonian nationalism.

Freedom for Estonia was all too brief. After two decades, Estonian independence came to an abrupt halt when Stalin occupied Estonia, as well as the other Baltic States of Lithuania and Latvia. The United States continues not to recognize the Soviet annexation of the Baltic States. The annexation not only ended Estonian independence, but also led to massive death and deportation. A total of 350,000 people were lost between 1939 and 1949—a third of Estonia's population.

Despite the suffering and stifled nationalism, Estonians have endured in their quest for independence. On November 16, 1988, the Estonian National Assembly issued a declaration of independence, the first of the Baltic States to do so. Over a million letters of support make clear that this new expression of Estonian nationalism has wide popular support. Recalling the events of 1918, this constitutional challenge to Soviet rule has sent a strong signal to Moscow that Estonian aspirations for independence are still very much alive.

A new generation of Estonians, born and raised under Soviet rule, have added their voices to these calls for a free Estonia. Demonstrations in the streets of Tallinn, the capital city, have brought together thousands of young and old to march with the black, white, and blue flag of Estonia. These brave protests resonate in Estonian communities throughout the world.

On December 28, 1988, over 10,000 Estonians gathered in Melbourne, Australia. Esto '88, the fifth such international Estonian gathering, was different from all the others. For the first time, Estonians from Estonia joined their brethren at this Estonian World Festival. Three generations marched together in Melbourne, calling for a free Estonia. And, last month, the Estonian National Asssembly continued to take a firm stand with the Soviets, adopting measures to protect the Estonian language.

These developments have offered great hope to all of us as we remember the brief period when Estonians experienced genuine freedom in their own land. I call on Congress to join with Estonian-Americans in Michigan and throughout the country in celebrating this anniversary of Estonian independence. We celebrate with the knowledge that the voice of Estonia will continue to be heard.●

LITHUANIAN INDEPENDENCE DAY

● Mr. SARBANES. Mr. President, it is a great honor for me to join again with more than 1 million Lithuanian Americans in celebrating the establishment 71 years ago of the Republic of Lithuania. On February 16, those of Lithuanian heritage and their friends and supporters will commemorate the proclamation of a progressive and independent Lithuania which, for its all-too-brief life of 22 years, was a beacon of democracy. Today all Americans are afforded the opportunity to reflect on the proud heritage of our fellow citizens of Lithuanian descent and to renew our dedication to the principles of freedom and liberty for which this important day stands.

The continuing unity of the Lithuanian people is based on a common heritage dating back many centuries. In the more than 700 years since the original formation of a united Lithuania, the history of this valiant nation has been marked by constant struggle against aggressors. Through countless invasions Lithuanian defenders stood resolutely against their foes and demonstrated their commitment to freedom. After well over a century of domination by Russia, the people of Lithuania proclaimed their independence and reestablished their sovereignty as a nation February 16, 1918. Years of repression ended with the adoption of a constitution in 1922, which granted to the Lithuanian people the basic freedoms of speech, assembly, and religion. For more than two decades the young nation prospered economically and lived at peace with its neighbors. Yet this brief period was terminated in 1940, when Soviet forces occupied and annexed Lithuania in violation of their peace treaty of 1920, an occupation the United States has never recognized.

Remarkably, the brave Lithuanian people have withstood centuries of relentless pressure to abandon their religion, their culture, and their language. Their success in preserving that culture as immigrants to the New World has not only guaranteed their cohesion as a community, but has produced innumerable contributions to American society. In the last century Lithuanians joined in the building of our new land as foundrymen in western Pennsylvania; weavers in New England and New Jersey; tanners in Philadelphia; dockworkers in Cleveland; and tailors in Baltimore. Today their descendents are leading members of the professional, business, artistic, and academic communities. Lithuanian Americans have greatly enriched America's culture with their longstanding tradition of self-help and voluntarism, as shown by the more than 2,000 Lithuanian charity and mutual aid organizations in the United States today.

On this 71st anniversary of the Republic of Lithuania's restoration, we must also pay tribute to the brave men and women whose visions of freedom and whose sacrifices of the past and present continue to guide the Lithuanian people. Our thoughts turn to Viktoras Petkus, founder of the Lithuanian Helsinki Monitoring Group, who has served more than 20 years in prisons, labor camps, and internal exile. We think of Balys Gajauskas, who has spent more than half his life in prison for his human rights activities. Bishop Julijonas Steponavicius has been in exile since 1961, and Father Alfonsas Svarinskas and Sigitas Tamkevicius will remain in exile until 1993. These men have risked their lives for the rights and freedoms we, as Americans, enjoy and cherish, and their strength and steadfastness of purpose serve as a bright ray of hope for all of us.

Mr. President, Lithuanians gather today in their capital, Vilnius, and around the world to commemorate the 71st anniversary of the establishment of an independent Lithuanian Republic. We in the United States stand with them on this important occasion, and share in the hope that the day is near when their dream of independence once again becomes a reality.●

S. 35, RURAL ENTERPRISE ZONE ACT OF 1989

● Mr. DOMENICI. Mr. President, the Reagan economic recovery has done many fine things for much of America. Yet, even though our economy has generated 19,000,000 new jobs since 1980, many parts of this great country remain in need of economic stimulation.

The purpose of S. 35, the Rural Enterprise Zone Act of 1989, is to encourage more economic investment in pockets of our Nation where unemployment and poverty are too high. We want to bring the power of free enterprise to areas that are having a hard time generating needed jobs.

I like Secretary Jack Kemp's idea of "unleashing the power of free enterprise." In this bill, we are talking

about special stimulative measures to unleash this power in our rural areas.

I am proud to be an original sponsor of this act. Along with Senator DANFORTH, several distinguished colleagues joined us on January 25, 1989, in introducing this act. They are Senators PRYOR, BOND, DASCHLE, DURENBERGER, BOSCHWITZ, BURDICK, GRASSLEY, PRESSLER, and COCHRAN.

As stated in our bill, we hope to establish "Rural Enterprise Zones to stimulate the creation of new jobs, to promote revitalization of economically distressed rural areas, and to provide increased economic opportunity for residents of these communities, primarily by providing or encouraging—

First, tax relief at the Federal, State, and local levels,

Second, increased Federal and State assistance,

Third, regulatory relief at the Federal, State, and local levels, and

Fourth, improved local services, particularly through the increased involvement of private, local, and community organizations."

Our bill would designate the possibility of establishing 45 enterprise zones throughout the country. These zones would be in areas with populations of less than 50,000 people, an unemployment rate of at least 1½ times the national rate, a poverty rate of at least 20 percent, and several other criterion.

In a typical zone, a city would designate the appropriate rural census districts that meet the income and poverty criteria of the act. That zone—but not the entire city—would then be eligible for the tax and regulatory relief designed to stimulate business activity.

Increased business opportunity and business investment would be encouraged by Federal tax incentives for businesses that choose to expand or relocate to a zone. These incentives include:

First, a 10-percent tax credit for wages paid in the current year that exceed the prior year's wages,

Second, nonrecognition of capital gain for tax purposes when the taxpayer reinvests proceeds in the zone,

Third, the ability to claim accelerated depreciation deductions on property financed with tax-exempt bonds, and

Fourth, relaxation of regulatory requirements in a zone.

Mr. President, there are many rural towns and cities in New Mexico that could take good advantage of this new economic development tool. These are towns that already have basic strengths, but are in need of a slight break to become more competitive. This bill would do the trick for many of them.

When I think about the usefulness of the zone concept, I think of the growing areas around Las Cruces. Belen has special attractions along the Rio Grande. Taos could expand its tourism potential. Las Vegas would like to attract more businesses. Farmington is at the heart of a potential boom in agriculture.

Hobbs could use a boost to attract more diversification. Albuquerque's South Valley area has a large labor force and could benefit much from more employment opportunities.

Gallup and Grants have special advantages along a major interstate and a major railroad line. Santa Rosa and Tucumcari have similar benefits and a lot of interstate traffic.

In addition, this bill allows Indian reservations to participate. I feel that Zuni Pueblo, Isleta, Laguna, Santo Domingo, San Juan, and others would show great interest in enterprise zones to boost their plans for future business development.

Mr. President, while it is clear that not every New Mexico rural area would successfully compete for this exciting designation, the fact that it could be available is encouraging to New Mexicans. I enthusiastically support this concept, and I look forward to the day in the near future when New Mexico towns, cities, and Indian pueblos can apply for this special designation.

I urge my colleagues to consider cosponsorship and active support of the Rural Enterprise Zone Act of 1989.●

VOLUNTEER TUTORS

● Mr. SIMON. Mr. President, last year, Dorothy Gilliam had a column in the Washington Post about a young man who is a volunteer tutor and about the Volunteer Tutor Program at Georgetown University.

It is one small part of a lot of volunteer efforts that are taking place all over this country.

But laudable as these efforts are, we have to be doing more.

I will be saying more to my colleagues about all of this in the weeks ahead, but in the meantime, I ask to print the Gilliam column in the RECORD, and I urge my colleagues to read it.

The material follows:

[From the Washington Post, Dec. 12, 1988]

BREAKING AWAY TO LITERACY

(By Dorothy Gilliam)

When Mark Poirier left his hometown of Tucson to enter Georgetown University two years ago, he didn't want to spend all of his college years in an exclusive Washington neighborhood, so he became a tutor and got to know and respect people in a problem-plagued Washington community.

Pursuing a longtime interest in efforts against illiteracy, the 21-year-old sophomore signed up with Georgetown's Sursum Corda Adult Literacy Program and was assigned to help teach Thomas E. (Preacher) Fenner to read, write and figure.

Such involvement in the community is rare on the part of college students today, who often are said to have elevated political apathy and lack of social concern to an all-time high.

Furthermore, how many students would be eager to go one or two nights each week into the Sursum Corda apartment complex at First Place and M Street NW., which since June has been the scene of five bloody slayings, increased drug peddling and stray bullets occasionally bursting through apartment windows? But Poirier is quick to say that he has gained as much as he has given.

"It means a lot for me to get away from up on the hill and be able to get out into the community," said Poirier, who is studying pre-med and engineering but hopes to pursue a career in education. "I'm learning how to teach, and Preacher is learning how to read and do math. Besides, there's a real sense of community at Sursum Corda. There's stuff we can learn from them, and they from us."

Preacher Fenner is 6 feet tall, 40 years old and was, for many years, an inmate at Lorton. Before he started in the literacy program a year and a half ago, he could barely read or do any mathematics. "It felt strange, it felt funny," he recalled, seated in the Sursum Corda living room where he and Poirier work every week. On the other side of the room, Poirier looked sheepish as Fenner's mother, Mary Fenner, chided him about not wearing socks with his penny loafers. Poirier played casually with Preacher Fenner's nephews and nieces.

For Fenner, learning to decipher symbols, lines and dots on paper is his way of trying to make a complete break from his past and reach his goal of attaining a job and financial independence. Closed-mouthed about his past, Fenner didn't want to talk about Lorton with a visitor and remarked casually to Poirier that he had spent a long time in jail "for committing a bad crime." Today, Fenner is one of the literacy program's most dedicated participants.

Begun in October 1987 by the Sursum Corda Tenants Association and Georgetown University, the literacy program has 30 specially trained tutors who meet students at their homes or in the nearby Sursum Corda Community Center to teach them one-to-one.

Fenner helped to develop the curriculum that Poirier is using to tutor him—for fun and practice, he has written to entertainer Eddie Murphy to tell him how much he enjoyed his film "Coming to America"—and is using his skills to take more control of his life. Fenner and other literacy students plan to join the neighborhood association's drive to get city officials to help them tackle the problems at Sursum Corda.

Recognizing that building literacy skills is the way to empower the community, such an action fits the program's goal.

Christine Nicholson, who heads the tenants group, said some residents were "a little bit bashful at first, but are coming out more. They are beginning not to worry about people knowing they can't read or write much and are willing to learn more."

I've always thought that being unable to read or write is the modern equivalent of being enslaved, or, at least, of being blind to much of the surrounding world. In the Washington area, entirely too many are blind or enslaved by this problem. Nicholson said that perhaps as many as 40 percent of the tenants at Sursum Corda are illiterate. People such as Mark Poirier are making a difference. But many more volunteers, in myriad literacy program across the area, are needed.

One of the rewards is the appreciation from people such as Fenner. Saying it "feels so good" to be able to write a letter, to finally know how to add and subtract, he added, "There's a lot I still don't know, but I feel like I'm on my way at last."●

NATIONAL SKI DAY

● Mr. GARN. Mr. President, I am pleased today to join Senator WIRTH in cosponsoring a resolution designating January 19, 1990 as "National Ski Day." It has been my policy throughout my service in the Senate to encourage economic development in an environmentally responsible way. This day will help citizens foster appreciation and respect for the outdoors and, at the same time, afford economic growth in the many ski regions throughout this country.

Skiing is a vital part of recreation and tourism in my State's economy as well as the economies of many other States. Nationally, ski areas bring in over $1.6 billion a year. In Utah alone, the ski industry employs an estimated 6,000 workers in manufacturing, distribution, and resort positions. Utah's ski resorts have evolved into year-round mountain resorts providing both winter and summer activities. Skiing in Utah brings in over $360 million, and over $27 million in combined State and local tax receipts. Of the 2.5 million lift tickets sold in Utah, over 53 percent are sold to out-of-State skiers while 47 percent of the lift tickets are purchased by Utah residents. In a family oriented State like Utah, skiing is excellent recreation for the entire family.

Utahns' are extremely fortunate to have seven world class resorts within 30 minutes of downtown Salt Lake City. Skiing has had a positive effect on our canyons by increasing both recreational value and commercial use of the national forests, providing employment opportunities and economic development, and creating an appreciation for the beauties of nature. In fact, because of the lack of humidity in our desert climate, Utah's snow is light, dry, and plentiful. That is why Utah's license plates claim ours as "The Greatest Snow on Earth."

This resolution is good for the vitality of America. No sport can so clear the senses and invigorate the body, as can skiing. I urge my distinguished colleagues to join us in this fitting recognition of an important and growing industry.●

INFANT MORTALITY AND CHILDREN'S HEALTH ACT OF 1989

● Mr. SHELBY. Mr. President, I rise today to join several of my colleagues in cosponsoring S. 339, the Medicaid Infant Mortality and Children's Health Act of 1989. I would also like to commend Senator BRADLEY for his leadership in this area.

Last year I was proud to cosponsor S. 2122, a bill introduced by Senator BRADLEY which mandated State coverage of pregnant women and infants up to 100 percent of the Federal poverty level. Through his guidance, and the support of other Members of this body, this provision was included in the Medicare Catastrophic Coverage Act of 1988 which President Reagan signed into law on July 1, 1988.

Mr. President, my home State of Alabama had the dubious distinction of leading the Nation in the number of infant deaths in 1986. In 1987, we improved somewhat from 13.3 deaths per every 1,000 live births to 12.2 deaths per 1,000 live births. According to recent statistics, Alabama still ranks fourth in this indicator of our Nation's health.

Alabama is not alone in its problem with infant mortality. Our Nation ranks 19th, behind most other industrialized nations and is still far away from the Surgeon General's goal of reducing the Nation's infant mortality rate from its current level of 10.4 deaths per every 1,000 live births to 9.0 deaths per every 1,000 live births by 1990.

One significant step we can take to eradicate this problem is to expand the availability of prenatal care, the benefits of which have been demonstrated repeatedly. The Institute of Medicine recently stated that the best weapon in the fight against infant mortality is expanded access to prenatal care and treatment of infants in the first year of life.

Prenatal care is cost effective in both financial and human terms—for every $1 spent on prenatal care, $3 is saved over the first year of the infant's life. Also, prenatal care has proven effective in reducing the number of low birthweight babies.

These low birthweight babies are at the greatest risk for high mortality and morbidity, according to an Office of Technology Assessment study. Neonatal intensive care for these babies is also one of the most costly of all hospital admissions. The OTA reported that the U.S. health care system saves somewhere between $14,000 and $30,000 in hospitalization and long-term care costs for every low birthweight birth avoided. Thus, the cost of Medicaid expansion to make prenatal care available to more pregnant women will be outweighted by the savings our health care delivery system will realize from the avoidance of low birthweight births.

Although the benefits of prenatal care are obvious, many barriers exist between this care and the patient. In Alabama, one critical problem we face is the lack of adequate obstetrical services. Pregnant women who are already disinclined to seek prenatal care are further discouraged if they have to travel great distances to receive medical attention. Currently, 28 counties in Alabama are without obstetrical services, a trend which will only worsen with time.

In 1987, the Alabama Association of Obstetricians and Gynecologists [AAOG] conducted a statewide survey of its members, 80 percent of whom responded. The survey listed the three primary reasons given by respondents for refusal to treat Medicaid patients as inadequate reimbursement, paperwork, and the fear of litigation.

The survey also noted that 30 obstetricians who had recently decided to refrain from providing care would come back if the Medicaid reimbursement was increased to a reasonable rate. In Alabama, the State Medicaid agency has set reimbursement for obstetrical services at $675. The survey indicated that a majority of obstetricians would participate in Medicaid if the reimbursement level was closer to $1,000 for these services. This is still far below the average of $2,000 to $2,500 charged to private pay patients.

The lack of obstetrical services is even worse in the rural portions of my State. The maldistribution of obstetricians in urban centers will continue as more rural hospitals are forced to close their doors.

Also, the rapid rise in malpractice insurance premiums has driven qualified obstetricians to the decision to stop delivering babies. In a 1987 State survey, the average malpractice premium approached $37,500 a year. I have spoken with several doctors recently who claim that this year that figure has risen to $60,000 a year.

Mr. President, something must be done to protect the children of our future. I am pleased to support this bill, which I understand will make Medicaid eligible to about 200,000 more pregnant women and infants each year. I can think of no worthier investment we can make than in our children and the future of our country.●

RECOGNIZING THE DISTINGUISHED SERVICE OF MAJ. DON W. JANSSEN

● Mr. DIXON. Mr. President, I would like to take this opportunity to recognize the hard work and superb contribution of Maj. Don W. Janssen in our armed services. After more than 20 years of distinguished service Major Janssen is retiring from the U.S. Air Force effective March 1. Major Janssen served his country honorably and loyally in his capacity as the Deputy Director of Planning in the Headquarters Air Weather Service at Scott Air Force Base in Belleville, IL. Major Janssen has been responsible for Air Weather Service's technical management of the $2.8 billion Defense Meteorological Satellite Program. Data re-

ceived from these weather satellites are used to support worldwide Department of Defense operations and the National Weather Service. Major Janssen has served his country with great distinction and should be very proud of his fine accomplishments. I would like to join my voice with those of his family and many friends in thanking Major Janssen for a job well done and wishing him the very best in the coming years.●

REFUGEES

● Mr. SIMON. Mr. President, the Chicago Tribune's magazine had a story by William Mullen describing what refugees face around the world.

It is a remarkably perceptive piece of writing that shows graphically the problems faced by much of the world. I wish I could also insert the pictures from this report in the RECORD.

It is commonplace to say, "We don't know how fortunate we are." But reading this account, or visiting refugees in other countries as I have had the opportunity to do, makes these words breathe.

I urge my colleagues in the Senate and their staffs to read this remarkable story by William Mullen, and I ask that it be printed in the RECORD.

The material follows:

REFUGEES

(Special report by William Mullen)

Wars create refugees, and refugees prolong wars. If there is a truism about late 20th Century warfare, that is it. Wars of independence, civil wars, border conflicts, internal revolutions and full-fledged declared wars spill people across borders every day.

If there is a truism about refugees in the late 20th Century, it is this: Most refugees will never have a chance to return to the places they once called home. That is a frightening prospect for the world's 13 million refugees but one that seems increasingly likely through the passage of years, even though all refugee camps are built to be "temporary."

The temporary camps set up 40 years ago in the Middle East now hold four generations of people, two of which have never known any other kind of life. Temporary camps in Africa will soon mark their 30th anniversaries. Southeast Asia, South Asia and Central America are pockmarked with camps turning almost 10 years old. Refugee camps have a way of building their own permanency in these peace-forsaken days when "small" wars can drag on for 10 years and set no duration records.

I first encountered refugee camps as a journalist in 1972 during the latter stages of the Vietnam War. I ran across numerous refugee camps in trips to Africa in 1974 and 1975. In 1977 I watched the first refugee outpourings into Thailand from Laos, Cambodia and Vietnam. In 1978 I met refugees coming into Somalia from Ethiopia and visited Palestinian refugees under fire in their camps during the Israeli invasion of southern Lebanon. In January, 1980, I saw the great flood of Afghan refugees inundating Pakistan's western borders as they fled the Soviet invasion of their country.

I thought I had seen those people when they were at their lowest, coming across borders grief-stricken and battered. But as the years dragged on and so many of those people were never able to go home, I began to have nagging thoughts about them. I wondered if there was some factor or pattern common to all refugees globally that might explain why the refugee camp has become such a perniciously enduring institution around the world. I wanted to go back.

Most of us will never have to make a decision to drop everything and flee all we know and cherish. The hundreds of people I talked with during my journey through refugee camps new and old *did* have to make that decision, and they crossed borders for the soundest of reasons—they and their loved ones were threatened with lethal violence. The stories of their escapes were harrowing. Even more harrowing, however, were the stories of endless years of lives on hold, of never having a life to call your own, of never having a claim on your own future.

If there was one overriding impression that I carried away from my nine-month tour, it was the stunning cruelty of keeping people in camps and in limbo, away from home and normal life, for so long.

We think of refugees as having safety when they make it to a refugee camp. But they never really escape the conflicts that sent them running. The longer they live as exiles, the more likely the conflict they escaped will come to swirl around them once again. It may come at the hands of the countries as asylum, when residents rebel at the burden placed on them by refugees. It may come at the hands of the refugees' enemies, who follow them across borders to continue old battles. It may come from the refugees themselves, when they turn on one another as the years of incarceration take their toll. One way or another, it will come.

We of the Old and New Worlds ask Third World nations to take on the burden of accepting millions of refugees, and then we are puzzled when those nations eventually rebel against shouldering the burden year after year. Before the world can solve its refugee problem, it must understand that the problem is not logistical—how to care for refugees—but political. Millions of human beings around the world want a place to call home but are denied fulfillment of that want. Denied long enough, they will do anything that promises an escape from their current situation. Life in a refugee camp provides the refugees with hours, days—years—to mourn what they have lost and to hate those who have driven them away from home. Let someone offer them a chance to fight back, and the takers line up.

More than 5 million Afghan refugees in Iran and Pakistan form the nation-in-exile that sends men into Afghanistan to fight the Soviet invaders and the Marxist regime they support in Kabul. Camps and settlements throughout the Middle East for decades have been the breeding ground for Palestinian insurrectionists and terrorist cabals. A million Ethiopians—half in Sudan and half in Somalia—send their young men home to fight a Soviet-backed regime there. A coalition of insurgent armies holds 300,000 people in Thailand to form a guerrilla army against Vietnamese occupation troops inside Cambodia. Tens of thousands of Nicaraguans, backed by the United States, send their men from refugee camps in Honduras and Costa Rica to fight a Marxist regime in Nicaragua.

For the various United Nations agencies charged with providing humanitarian care for 13 million refugees around the world, the refugees as combatants pose a dilemma. UN aid is supposed to be strictly humanitarian. The activities in the camps and settlements that the UN provides for refugees are supposed to be, if not nonpolitical, at least nonmilitary.

That is a difficult standard to maintain. For the most part, the refugees, fueled by their painful memories, are willing participants in these armed struggles. They openly manipulate and in turn are manipulated by outside political forces that have a stake in whatever conflict sent the refugees fleeing from their homes.

Inevitably the countries who give sanctuary to refugees get sucked into the deadly game. Usually the host countries also are willing participants because they fear the governments that sent the refugees into their midst.

Honduras and Costa Rica fear the leftist Sandinista regime in Nicaragua. Thailand fears the ambitions of the Vietnamese regime whose army is occupying Cambodia. Sudan and Somalia are bitter, historic enemies of Ethiopia, as are the Arab nations of Israel. Pakistan lives in the shadow of Soviet power plays in South Asia. In each case, the host governments not only give sanctuary to the refugees but to some degree also allow their countries to be used as bases for continuing attacks on their neighbors' governments. Obviously this is a risky situation. When things go wrong, the host countries can suffer horribly, but eventually the refugees will suffer more because no one will take them in anymore.

On July 9, 1987, a car bomb exploded in the middle of a busy bazaar in Peshawar, the Pakistani city that is the center for Afghanistan's exiled resistance movements. The bomb killed 72 people, most of them Pakistanis. Last Feb. 19 another car bomb went off in Peshawar at a Pakistani political rally, near a public school. A dozen people were killed, including two children.

"Eighty percent of the world's state-sponsored terrorism occurred last year in Pakistan," says a Western diplomat in Islamabad, Pakistan's capital, "killing about 500 people in all. It's almost a daily occurrence. There's no secret about who's setting off these bombs. It's KHAD [the secret police of Afghanistan's pro-Soviet regime] and the KGB [the Soviet secret police]. The bombs follow a very consistent pattern, set off in crowded public places with the intention of killing and maiming as many people as possible. Bus stations, cinemas, bazaars—that sort of thing."

The main target of the bombs, he says, is not the 3 million Afghan refugees in Pakistan. It is Pakistani public opinion, which has approved of the ongoing war against the Soviets in Afghanistan and has given a generally warm reception to the hordes of refugees in their midst.

"It's no surprise that there are calls for public order by Pakistanis after the bombs explode and the casualties are counted," says the diplomat. "There are two or three levels of response to the bombs. One is a call to remove all refugees from cities and towns, to isolate them in camps so that Pakistanis won't get caught in the violence. In other instances Pakistanis have beaten up refugees after bombing incidents, blaming their presence in Pakistan for the violence. Another response has been to attack the government's policy of Afghanistan, that if the government withdrew its support of the resistance, the bombs would stop, and the refugees would go away."

Many Pakistanis are uneasy about the increased violence refugees have brought to Pakistan, but they remain supportive of the refugees' cause. "There is only a shift in degree of uneasiness about the refugees," the diplomat continues, "but certainly it's not anything that has gotten out of control."

The impact of the sudden influx of more than 3 million people into Pakistan and their prolonged stay—now up to eight years—will not easily be erased.

Ecologically the refugees have been a disaster to Pakistan, especially to the North West Frontier and Baluchistan, the provinces to which most of the Afghans have fled. In searching for firewood, they have so denuded the forests and scrublands in which they have built their camps that the World Bank has invested $60 million in reforestation projects to try to undo some of the damage.

Economically the refugees have been a mixed blessing. They have been a plentiful source of cheap labor to Pakistani farmers and businessmen, especially those in the construction industry. In other sectors, however, the refugees have been direct competitors for jobs. For example, the many refugees who came into Pakistan driving their own trucks have gone into the trucking business on a large scale. As refugees, they were not obligated until recently to pay Pakistani taxes, so they could undercut the Pakistani truckers' rates. This has led to several bloody riots.

Perhaps most serious, the enormous amount of sophisticated weapons being funneled through Pakistan for the benefit of Afghan rebels will likely alter domestic political equations in Pakistan for years to come. The North West Frontier and Baluchistan are semiautonomous tribal areas that have never been fully under the control of Pakistan's government. The history of the two provinces is one of almost constant armed feuding with the central government and among the tribes themselves.

Tribal and clan fueding within Pakistan used to be mostly minor affairs of murder and kidnaping during small/scale raids with single-shot rifles on neighboring villages. Now whole sections of rival villages are being reduced to rubble by long-range mortar and rocket attacks as tribal rustics familiarize themselves with the advanced 20th Century weaponry pouring into Pakistan to arm the Afghan resistance.

The atmosphere of violence and military bravado that the Afghans brought back with them into the North West Frontier and Baluchistan has permeated nearly every level of Pakistani society there.

Before the refugees came, few private citizens walked around carrying arms, says a Western-educated Pakistani economist in Peshawar." There were no more than 500 or 600 automatic weapons in private hands in the province," he says. "Today you can brush up against a man accidentially in the street, and you can feel a weapon underneath his clothes. An American M-16 rifle costs about $1,250, and ammunition for it is about 60 cents a round. A Russian-style AK-47 rifle is about $900, and ammunition for it is only 3 to 4 cents a round. Everybody has one, and, of course, the American gun is the prestige firearm, the one everybody wants.

"Our tribesmen today have antiaircraft guns, mortars, rockets and rocket launchers. In the Kurram Agency tribal area last year, there was a clash between the Shiite and Sunni communities, something that has always happened. This time, however, unofficially 200 people were killed. After a few days, pictures appeared in the local press. They were pure and simple war photos, not of a communal riot. Houses were collapsed from six or seven miles away by exchanges of rocket fire."

The economist admits he is himself in the market for an M-16 rifle.

"I'm going to buy one for my 16-year-old son," he says sheepishly. "He's been after me for months, arguing that all of his friends have one. I've run out of arguments. It's a status symbol, something to shoot off into the air at weddings and special functions. I'm not a rich man, and I'm not willing to buy a useless piece of metal that I hope I myself or any member of my family will never have to use. However, it comes to a point when you have to bow to societal pressures.

"The upshot of it all is that the initial feeling of goodwill for the refugees here has undergone a change. Today I think Pakistan still has the best refugee situation in the world in terms of treating them equitably. But if you ask a Pakistani man on the street, he will tell you, 'I wish them well, but I wish them gone.' The Pakistani welcomed the Afghan as a guest, but after three or four years, it wasn't exactly a guest-host relationship."

The welcome mat is wearing thin for refugees in many countries of first asylum. Underlying the lessening of hospitality for refugees is the sheer length of the time they remain in exile. The changing patterns of geopolitical alliances since World War II have meant that refugees remain in camps for years and decades. They are unable to go home, but they are also undersirable candidates for permanent resettlement elsewhere. For the first-asylum nations that must house them, the refugees create nearly impossible physical, economic and political strains.

First-asylum countries are those directly in the path of refugees looking for a haven. Because most refugees are from the Third World, most countries of first asylum are in the Third World, too, and are themselves quite poor.

There are 25 countries in Africa, Asia and Latin America that now have refugee populations of more than 50,000, according to the Independent Commission on International Humanitarian Issues. The 20 nations with the highest ratio of refugees to their own populations have a per-capita income of less than $700 annually.

Malawi is just such an accident of geography, inundated by hundreds of thousands of refugees. About the size of Pennsylvania, it is a long, narrow, landlocked country of 7.5 million people in south central Africa. With a per-capita income of $200, it is one of the most densely populated countries in Africa and one of the poorest. In the best of times, about 85 percent of all Malawians eke out living from subsistence farming. In the last three years drought and plagues of insects have brought widespread hunger and illness to the population.

Coinciding with those economic disasters is the human disasters of the civil war in Mozambique, Malawi's southern neighbor, with which it shares a 300-mile border. In 1986 Mozambicans, hungry and terrorized by war, began arriving in Malawi by the tens of thousands.

By November, 1987, when I arrived in Malawi for a tour of its refugee camps, 400,000 Mozambicans had already been registered in camps operated by the UN High Commission for Refugees, and they continued to arrive at the rate of 20,000 a month.

A 40-mile drive down Malawi's main highway connecting Lilongwe, the country's capital, with its southern districts, is one of the more eerie drives in the world.

On the Mozambican side of the road, which marks Malawi's western border with Mozambique, every town, village, hamlet and farmhouse stands empty and gutted by the insurgent Mozambican army called Renamo. Doors are gone. Window casements are empty. The corrugated tin roofs have been carted away. Not a living soul stirs in the abandoned landscape.

Just a few yards away on the Malawian side of the road, every town, village, hamlet and farmhouse is jammed to overflowing with life. Of these, many are older settlements of Malawians who, linked closely to the fleeing Mozambicans by family and tribal ties, have taken in the refugees on their own. Others are brand-new communities made up solely of refugees, set up by the UN on Malawian farmland.

One side of the road represents death or enslavement to an unpopular uprising. The other side offers life itself, albeit a precarious one. The Malawian settlements are targets of frequent raids by Renamo fighters, who steal food supplies and often kidnap refugees and force them to work as porters or field hands for the rebel forces inside Mozambique.

Even the UN is having difficulty getting sufficient food and other supplies into Malawi to care for the refugees. Renamo continues to sabotage two main rail lines that once carried 90 percent of Malawi's freight from Mozambican ports into and out of Malawi. Most supplies now must go on a circuitous truck route through the war-contested Mozambican province of Tete down to Durban, South Africa. Last November the number of army-protected convoys over that route were cut from six to three because of Renamo attacks.

At that time the UN was importing 950 metric tons of corn every week to feed the 400,000 refugees, only about half the amount needed to feed so many people adequately, says one international relief official.

In Nsanje, the southernmost district of Malawi, the 220,000 Mozambicans settled there actually outnumbered the native Malawians by 30,000. In the shade of an enormous banyan tree there last November, I met one of the most recent arrivals.

"I arrived today, walking," said Madeza Misikeni, a 33-year-old Mozambican farmer. He shared the shade of the tree with his two wives, three children and dozens of other refugees who, like him, had arrived that morning nearly naked and wracked with exhaustion. They were waiting to be registered by local officials.

Misikeni said he and his family walked for four nights from their home to get to Malawi.

"Renamo soldiers were in our area for a long time, fighting government troops," he said. "Renamo people were asking for food from the villages, and if you failed to give them any, they would torture and sometimes kill you. They came to my house one day, and I gave them food. I was afraid of their guns. Many, many people were being killed. I was afraid I would be killed.

"Nobody was working in their gardens anymore because if you were found by Renamo, they might force you to work as their porter. The day I left for Malawi the Renamo people were in our village forcing people to prepare their gardens. We were forced to give them seeds and plant their

gardens, and we were forced to carry their dead after their fights with the army.

"We had knowledge that there was a big refugee camp here. Last Wednesday I just simply slipped away with my family. Soldiers were in the bush looking for people trying to escape, so we slept during the day in the bush and walked all night."

Misikeni and his family sat with all of their wordly possessions in two baskets at their feet. They contained some tin cups and kettles and some metal farm tools. His youngest child, a 6-month-old baby, was covered with scabies.

"Most of the children are malnourished and sick," he said. "We just came with our baskets, with no blankets, no clothes and certainly no food. I expect more and more people to come."

Misikeni was right. From November to last July, 200,000 more Mozambicans arrived in Malawi, and the rate of their arrival has increased from 20,000 to 30,000 a month. By Christmastime there should be 750,000 Mozambicans in Malawi.

The additional competition for Malawian food, land, water and medical facilities deeply worries refugee and development experts working inside the country. Malawi until four years ago was generally considered self-sufficient in food and—an oddity in black Africa—a thriving, free-market economy free of international debt.

Now it appears Malawi may be sliding into a status similar to Ethiopia's—that of a chronically food-short nation that will in the future depend heavily on international assistance to avoid famine. It has an annual birthrate of 2.4 percent but less than one acre of arable land per person, and most of its farmland is only marginally productive.

The country has one of the highest child-mortality rates in the world; 151 children out of 1,000 die in their first year, and 320 out of 1,000 die fefore their fifth birthday. Child-malnutrition levels in the rural areas are among the highest in the world, with 55 percent of the children under 5 showing symptoms of chronic maluntrition. In some parts of the country, the figure is as high as 65 percent. The addition of 750,000 destitute Mozambicans to an already impoverished people could spell tragedy for Malawi.

"The refugees are camping out on farm fields, taking already very limited land out of production," one aid official said. "They are cutting down wood for fuel and accelerating deforestation and degradation of land, creating long-term problems for the government. The health concerns the refugees bring with them are very serious for Malawi.

"Few of the Mozambicans, when they arrive here, and only 40 percent of all Malawians are covered by inoculations. The government health services responded magnificently to the refugees, diverting much of the country's primary health-care resources to them. But that has compounded the problems of an already inadequate health-care system for Malawians. There are only 18 Malawian doctors in the country, and very few trained health workers."

Thus far the Malawians have been extraordinarily accepting of the Mozambican refugees. Perhaps that is because most of the early arrivals are from areas close to Malawi's border, which means they are ethnically related. As the war grinds on, however, the newer arrivals are coming from deeper and deeper inside Mozambique and thus have no tribal or family claims on Malawian hospitality. Most refugee officials in Malawi believe resentment will eventually show its face to the refugees.

"How long Malawians are going to continue to be tolerant is a matter of speculation," one UN official said. "We don't except them to be always hospitable when their own situation continues to get worse."

A catastrophe similar to that of Malawi is building in tiny Swaziland, another landlocked country, which shares borders with South Africa and Mozambique. A nation of 720,000 people and smaller in area than New Jersey, it now has 60,000 Mozambicans and 7,500 black South Africans living in refugee camps and settlements.

Swaziland and Mozambique share an 80-mile border, and so far Renamo has not operated heavily there. International relief workers believe that if Renamo became more active near that border, more people would come to Swaziland. Already 250,000 Mozambicans have fled into South Africa from areas close to Swaziland.

"There are a million people in rural areas inside Mozambique that are within a five-day walk from here," said a UN official in Swaziland. "If Renamo brings the war into that area, the Mozambicans would go either for . . . South Africa, or they would come here. Even if only 10 percent came this way, it would overwhelm us, and it would overwhelm the country."

Already Swazi newspapers are filled with stories blaming Mozambican refugees for the rising crime rates and increasing disease in the country. At a public meeting of top government officials in July this year, the Mozambican refugees emerged as the issue that most concerned Swazis, who demanded to know how long the country would have to continue ceding land to refugees. The government itself has for more than a year refused to earmark additional land for UN refugee camps.

So far, however, neither Malawi nor Swaziland has turned away refugees who appear on their borders. But increasingly other nations in the world already saddled with long-term refugee problems are going to extraordinary lengths to keep out new arrivals.

Mozambicans trying to escape into South Africa, for example, have to overcome a macabre series of lethal barriers to get through. The refugees are trying to reach the black "homelands" created by South Africa. Mozambique does not want its citizens to flee to the hated South African apartheid regime and has built a no-man's land to stop them. It is a narrow strip running along the border of the two countries that has been heavily seeded with land mines.

Those who succeed in crossing this barrier must then choose between two obstacle courses. One is a series of three parallel fences, erected by the South African government in 1986, that runs from Swaziland for about 40 miles north to the southern edge of the Kruger National Game Park. Two lower fences with a higher one between them run along the length of the border. The two lower fences are there to keep stray wild animals from running into the higher center fence, which, topped with razor-sharp concertina wire and carrying an electric charge, is designed to discourage refugees from crossing over. In its first year of operation, the charged fence has proved fatal to at least 36 would-be refugees, according to the United Nations.

Refugees who don't want to risk the fence can cross into South Africa through the game park. No fences there, but they face two other obstacles—South African authorities and the wild animals, especially lions and crocodiles.

Refugees caught inside the park by South African authorities are immediately arrested and dumped back into Mozambique. As a result, refugees hide in the bush during the day and try to cross the park at night.

"If they get into the park," says a refugee official in Swaziland, "some get eaten by the animals. The rivers are jammed with crocodiles, and the lions are developing a taste for human flesh because they're such easy prey."

Deaths in the park are common enough that they rate only a paragraph or two in South African newspapers. Last Dec. 3, in a section deep inside the newspaper devoted to local news, the Star, a Johannesburg English-language daily, ran the following account:

"On Sunday a group of people, thought to be Mozambican refugees, scattered when a large crocodile grabbed a woman and disappeared with her under dense growth in the Crocodile River.

"The woman's body was seen later alongside a large crocodile, which became aggressive when they approached.

"A search later brought in only pieces of clothing."

That Mozambicans still try this harrowing trek to get into South Africa is a testament to their tenacious will to survive. The same could be said for hundreds of thousands of refugees elsewhere in the world who have had to overcome enormous odds in their flight from danger.

Untold thousands of Vietnamese have died anonymously in the last 10 years in small, unseaworthy boats in the South China Sea. They have drowned when their boats capsized. Or they have been murdered by pirates. Or they have starved to death when their boats' engines failed and they drifted aimlessly on an endless, watery void.

The exodus of the "boat people" from Vietnam reached its peak in 1979, when as many as 50,000 people were fleeing by sea each month. Thailand, by virtue of its geography, was the hardest-hit country of first asylum. At the same time that Vietnamese boats were piling up on Thai beaches, tens of thousands of Cambodians were fleeing over Thailand's eastern border, and like numbers of Laotians were fleeing across its northern border.

Faced with feeding and housing this increasing accumulation of unwanted humanity, with little meaningful help from the outside world, Thailand took drastic measures. Thai naval vessles began towing Vietnamese back out to sea in their leaky boats, condemning many of them to certain death. In June, 1979, the Thais rounded up 40,000 Cambodian refugees and forced them at gunpoint to re-enter their own country down a steep escarpment into a heavily mined field. Ten thousand people died in the exercise, either from exploding mines or from Thai gunfire when they tried to turn back.

In this, Thailand was not alone. Other nations, in the region also began turning Vietnamese boat people back out to sea. As cruel as the policy was, it succeeded in getting the international community to react. A special UN session was called in Geneva in July, 1979, to alleviate the plight of the refugees and to assure the Southeast Asian nations of first asylum that they would not be saddled with a permanent refugee population. Thus began the remarkable effort to resettle Indochinese exiles in third countries.

To date, more than 1 million Vietnamese, Cambodians and Laotians have been resettled in the U.S., Canada and Australia. An-

other 150,000 have been resettled in such Western European nations as France, Great Britain and the Scandinavian countries. By 1981, however, the initial burst of welcome for the Indochinese refugees had waned in the West.

Refugee experts began to worry that the wide-scale resettlement of Indochinese was exacerbating the problem, luring more and more people across borders with the promise of new lives in rich, industrialized countries. This fear has been mixed with so-called Western "compassion fatigue," brought about by years of seemingly endless crisis intervention in Third World famine and refugee situations. Together those forces have gradually curtailed Western resettlement programs for Indochinese.

Cambodians, Laotians and Vietnamese are highly distrusted and disliked by the Thais, and to give them refuge year after year is a continuing dilemma for Thai politicians. The idea that the Thais might allow Indochinese refugees to settle permanently in their country is totally out of the question. The idea that the rest of the world will default on promises to empty the camps through resettlement is a recurring political nightmare for Thailand.

A country of first asylum like Thailand becomes paranoid as it watches Western commitment to refugee resettlement fade. In 1981 Thailand instituted a new policy to dam the continual flow of Indochinese. Under "humane deterrence," the Thais deliberately make life in the refugee camps, difficult. Housing is barely adequate, and refugees are restricted throughout their stay from leaving their cramped, guarded compounds. Some refugees are refused the right to apply for resettlement in other countries, as is the case with 300,000 Cambodians housed in Thai-Cambodian border camps. The idea is to make the lot of the refugees so miserable that no more will come.

Humane deterrence has not worked. Though the numbers of people fleeing Indochina dwindled initially, they increased again in 1987. By last January, new arrivals of Vietnamese boat people in Thailand had reached 2,500 a month.

The upsurge in boat people has meant a renewed source of prey for Thai pirates, who have been a constant source of torment for refugees. More and better naval patrols on refugee sea routes have curtailed piracy somewhat but not stopped it.

Last January, for example, 8 of 157 refugee boats landing in Thailand encountered pirates during their escape. Refugees in six boats were simply robbed of gold, jewelry and other belongings. The other two refugee vessels were rammed by pirate ships, killing five in one and seven in the other, six more refugees were lost at sea. Seven survivors of the latter boat also reported that two women were plucked from the water and abducted by the pirates. Since piracy statistics in the Gulf of Siam were first complied in 1981, 659 refugee women and girls have been similarly abudcted by pirates, 357 of them never to be seen again.

Alarmed by the growing new influx of boat people, Thailand in January reinstituted its policy of towing refugee boats back out to sea. The small boats then head for other Southeast Asian nations, usually Malaysia and Indonesia, both of which also have a history of refusing refugee vessels. In April a boat carrying 125 Vietnamese was fired upon by Indonesian soldiers as it tried to land, killing one refugee and wounding another. The boat eventually landed in Malaysia.

The U.S. has led the Western nations' protests against these dangerous "push back" policies of Southeast Asian first-asylum nations. Such criticism from the U.S. is viewed by the Thais as sheer hypocrisy because in 1981 President Reagan signed an executive order directing the U.S. Coast Guard to intercept boats with would-be Haitian refugees headed for Florida. The policy is still in force, and Haitian boats, when caught, are still towed back to Haiti by the Coast Guard.

"In recent years it has become quite clear that it is not wise to preach what one cannot practice," says Zia Rizvi of the Independent Commission on International Humanitarian Issues. "You can't tell the Third World to open their doors to refugees while you are slamming your own."

Thailand and other Southeast Asian nations argue that many Vietnamese now fleeing their homes are not legitimate refugees. They claim that recent arrivals are less victims of persecution than "economic" refugees merely escaping grinding poverty under Vietnam's communist system. Of the refugees landing in Thailand last January, however, 73 percent of the families either included somebody who had been jailed in Vietnamese "re-education" centers for political beliefs or were ethnic Chinese who had suffered racial persecution.

Who is a political refugee and who is an economic migrant is an increasingly blurred issue, particularly in Southeast Asia. Conditions must be excruciating any time people feel compelled to leave home, abandon their society and all that they know and love and risk death to reach an alien and inhospitable land.

Cao Thi Phi Sa and Cao Dang Ra made their wrenching farewwells to Vietnam in November, 1987, arriving in Thailand safely last Dec. 1. Their boat didn't sink, they weren't attacked by pirates and they arrived a month before Thai naval vessels began towing refugee boats back to sea. Moreover, they stand an excellent chance of jumping to the head of the line to emigrate to the U.S.

That is because Sa, 12, and her brother, Ra, 10, arrived in Thailand without their parents or other close relatives. They are housed in Phanat Nikhom refugee camp in Central Thailand, in a special compound that stands as an example of how "Band-Aid" refugee policies, no matter how well-intentioned, often turn into something verging on the perverse.

Sa and Ra live in what is called the "unaccompanied-minors compound" in the camp. In March the two long, tin-roofed buildings in the compound housed 307 children, all of them 14 years old or younger. The youngest was 4 years old. All of them arrived from Vietnam without parents or family, either sent away from home deliberately by their parents or separated from them in one way or another during their escape.

The children are well-looked after by nurses, missionaries and Vietnamese lay workers, but the emptiness of life without their parents, especially for the younger ones, is heartbreaking.

"The children are supposed to go to sleep at 9:30 at night," said a Vietnamese seminarian, also a refugee, who works in the children's compound. "I go into the dormitories and check on them about 11. Some of the children just sit by themselves and cry. They tell me they are homesick. They have no relatives, and they feel lonely. They worry because they don't have enough clothes. They worry about resettlement."

Sa said she and her brother were living in Saigon when their father arranged for their family to leave by boat last Nov. 11. They had gone with their parents from Saigon to Ha Tien, a coastal town near the Cambodian border, and gathered on the beach at nightfall with other Vietnamese who had paid for their passage. She and her brother were put into a rowboat and taken to a larger vessel moored offshore. They then waited on deck for their parents, who were to come out in a late rowboat, she said.

"On the land something happened," Sa said. She is unclear about the details, but Vietnamese authorities apparently arrived suddenly on the beach. Those caught on shore were arrested, though Sa's parents apparently got away. Whatever happened, Sa and Ra went on their way to Thailand without their parents: "When the trouble started, the big boat left right away. There were only nine of us on the boat."

When Sa and Ra arrived safely in Thailand, they were immediately taken to the unaccompanied-minors compound. More than 10,000 Indochinese children have arrived in Thailand without parents or guardians since 1975, 800 in 1987 alone. Because the U.S. considers the children of "profound humanitarian concern," it works to get them out of the camps and resettled in third countries quickly, taking the vast majority of them itself.

The swiftness of their resettlement, however legitimate a humanitarian exercise it might be, also establishes a foothold for the rest of their families to follow. The dwindling number of slots being offered to Indochinese refugees for permanent resettlement in the West has created something of a quandary.

"I'm always thinking about my father," Sa said. "I'm always hoping that he will come here. I don't know why we left, but I know he wanted to go to America."

It always helps, when applying for resettlement, for the refugee to prove he has close relatives already living in the country to which he wants to migrate. Many refugee workers believe large numbers of children are arriving in Thailand unaccompanied to take advantage of this policy.

Not all of this is cold and calculating. Refugee workers say that unaccompanied children are from very strong, tightly knit, loving families.

"The parents are usually well aware of the risks they are putting their children through," said a Western nurse working in Phanat Nikhom. "Establishing a solid future for your children is of paramount importance in Vietnamese society. Many of the children come from families who are at odds with the regime in Vietnam, and the educational and employment opportunities are very limited for their families there as a result.

"Culturally you have to divorce yourself from what a Western parent would do. It's a different situation. The parents know that circumstances change, that they might never get out of Vietnam themselves or see their children again. But they think that if their kids can get out and get to the West, even if they can't, they are making sure that their children will be properly educated and given an opportunity to make something out of life."

Unfortunately, the children are often too young to understand why their parents sent them away, believing they have done something wrong, that they are somehow at fault for the separation. Though about 75 percent of the children spend only a few weeks

or months in the camp before resettlement (98 percent of them going to the U.S.), it can take three years or more for others to get out of Thailand. These children, according to Bridget Messana, an American Catholic lay worker at the compound, often get scolding letters from their parents in Vietnam. The letter chide the children for "misbehaving and taking so long" to get resettled.

"The most pain-filled group are those children who are hopeless," Messana said. "They arrived in Thailand one, two or, for some, more than three years ago and have seen so many other children come and go, and still they remain. What is even more frustrating is that these long-staying children have no idea if 1988 will bring them that long-hoped-for freedom . . . because the international attitude toward these children is not at all welcoming. The workers who cannot comfort them with false hope because the reality is that at least half the children will remain in Phanat Nikhom throughout 1988 unless policies change."

Policies are changing rapidly in Southeast Asia, and most of them make it harder for refugees. Canada, Australia, France and Britain are under public pressure to end the resettlement policy.

The U.S. resettlement of Indochinese is gradually declining, too. In 1986 the country accepted 36,000. In 1987, 32,000. Early in 1988, in the midst of a growing number of refugee arrivals in Southeast Asia, it earmarked slots for 29,500.

Thailand, Malaysia, Indonesia and Hong Kong all point to large refugee populations in their camps who are longstayers, people who have been in camps four, five and six years. They are refugees who for one reason or another have already been turned down by Western nations and have fading hopes of ever being resettled anywhere.

Besides the 300,000 Cambodian refugees it wishes to keep for the moment, Thailand also has nearly 100,000 "residual" refugees whom nobody wants. They are Vietnamese army deserters, North Vietnamese who cannot prove they have been persecuted at home, Cambodians who have been somehow connected to the Khmer Rouge, and Hmong from Laos who do not want to be resettled but only wish to go home when it is safe.

If nobody else wants them, Thailand doesn't, either. And Thailand does not want to allow any more refugees into its camps, a certain percentage of whom are bound to become "residuals."

The Southeast Asian countries most affected by the most recent tide of refugees have been banding together to shut their doors. Most are adopting strict screening of new arrivals. If refugees cannot provide persecution by their home countries, they are arrested and jailed pending their forced removal back to their homelands.

Vietnam, the biggest generator of refugees in the region, promised last July to accept such returns of human merchandise. Previously Vietnam considered any of its refugee citizens "illegal departures" and labeled them criminals. In July, however, it declared it was ready to allow refugees unable to resettle elsewhere to come home under UN supervision.

Western nations, just as weary as Southeast Asia of the endless stream of Indochinese refugees, are beginning to support the move to send the unwanted home. Last July U.S. Secretary of State George Shultz said such repatriation, if voluntary on the part of the refugees, should be considered as an alternative to Western resettlement.

"It is feared the policies themselves are creating a possible problem," Schultz said. If resettlement is in fact encouraging economic migrants to pose as political refugees, it should be curtailed, he said.

The softening of the Western commitment to accept all refugees fleeing Indochina is typical of most refugee policy "solutions." Primarily it solves the political problems of the powerful—the nations of first asylum and of resettlement. Of secondary importance is the plight of the powerless refugees, who will eventually move where the rest of the world tells them to move. The 23,000 refugees in Hong Kong are prime examples.

Breakfast begins at 8 a.m. at the Hei Ling Chau refugee camp on a hilltop of an isolated island an hour's boat ride from the British Crown Colony of Hong Kong. The camp's 3,000 Vietnamese inmates have been up scurrying around since a public address system began trumpeting Chinese music at 7 a.m. They have lined up to use the toilets, one for each 145 inmates, and then lined up to get into the communal dining halls for their morning meal of rice, pork and vegetables.

Nowhere else in the world does the image of "warehousing" unwanted refugees become reality as it does in Hong Kong. The refugees of Hei Ling Chau are housed in 10 brick, barrackslike buildings. Each family is assigned to a cubicle made from industrial shelving exactly 8 feet long, 6 feet wide and 3 feet high. Each cubicle is expected to accommodate a family of five and all their belongings. They are stacked three high. All that separates one family from those on either side is a curtain. Those living on the top tier don't even have that small nod to privacy.

Once breakfast, served in shifts, is over, there is little for the inmates to do, except for the children, who attend school. At lunch and dinner times they line up again for a prepared, communal meal. The meals are nutritious and probably the most generous provided to refugees anywhere in the world, with beef served twice a week, fresh fish twice a week and pork and canned fish each served once a week. And boring.

"The food is healthy, but it is so repetitive that you sometimes don't eat enough," said Tran Huu Tiep. Tran, a 30-year-old bachelor, had been staring the same menu in the face for six years, since he arrived in Hong Kong on a leaky boat from North Vietnam in October, 1982.

Women are not permitted to prepare meals for their own families. Men aren't allowed out of the camp to find work. Clothing is distributed army-style: You stand in line for it, you take what they give you and you wear it, whether you like it or not.

All the basic needs of life are taken care of in Hei Ling Chau camp, but that can be said of prison, too. Everything operates smoothly and efficiently. The camp is overseen by courteous, no-nonsense young guards from Hong Kong's Correctional Services Department. Though the young men and women are trained for prison duty, they look more like resort recreation directors in their charcoal slacks, white shirts, ties and blue blazers.

The natty guards stand at the gates in the high fences that surround the camp and divide it into sectors, locking and unlocking them each time a refugee or a camp worker walks from one section to another. There is no greenery or even dirt in the camp, only cement and brick. I fit has the sterile air of a prison, that is because the Hong Kong government built Hei Ling Chau for use as a medium-security prison once it is rid of the refugees.

"A lot of people have nothing to do," said Tran. "They sit around during the day and talk or watch television in the dining halls, or they sleep. At night they sit around in their cubicles playing cards and talking, making a lot of noise when others are trying to sleep. It is a very bad problem, having nothing to do, when you are living on top of each other.

"If too many people are in a small area, you are going to have fights. Fistfights, bludgeons or whatever. Sometimes the fights send people to the hospital. Usually it's over something trivial.

"I lived in Hanoi City at home, where I never saw a man hit his wife. Here I can see trouble in families every day. A husband can't do anything for his wife and children, and people just go slightly crazy."

The sterility of life in Tran's camp is no accident. It was designed that way deliberately by the Hong Kong government. In 1982 the colonial government implemented its program of "humane deterrence," following Thailand's lead.

Leaving nothing to chance, the authorities insert a printed flier that graphically describes the misery of Hong Kong camp life into each letter the refugees send home to Vietnam.

But the boats come anyway, arriving in Hong Kong after days or weeks at sea. They are greeted by harbor police boats and officials who try to talk the refugees out of landing, and they offer to reprovision the refugee boats and help them head out to sea again. It is all explained in circulars printed in Vietnamese:

"All former residents of Vietnam seeking to enter Hong Kong since 2 July 1982 are detained in special centers.

"If you do not leave Hong Kong now, you will be taken to a closed center and detained there indefinitely. You will not be permitted to leave detention during the time you remain in Hong Kong. It is extremely unlikely that any opportunity for resettlement will be forthcoming.

"You are free to leave Hong Kong now, and if you choose to continue your journey, you will be given assistance to do so."

Hong Kong clearly wants to wash its hands of this particular political issue. Since the end of the Vietnamese war in 1975, some 140,000 refugees have come to Hong Kong from Vietnam. About 115,000 have been resettled elsewhere, half in the U.S.

The colony's population is largely Chinese, many of whom illegally crossed the border themselves or have relatives back in China clamoring to come out. The sight of Hong Kong tax-supported camps housing 23,000 Vietnamese legally admitted to the colony and awaiting legal resettlement elsewhere is a galling one to the Hong Kong Chinese.

For the last several years Chinese legislators in the colony have been demanding that any new Vietnamese arrivals in Hong Kong either be pushed back to sea or held in detention until they can be sent back to Vietnam.

"We have 6 million people [in 400 square miles]," said Nigel French, the senior civil servant in charge of Hong Kong's refugee policy. "We have 27,000 illegal immigrants a year coming in from China alone to top our own population pressures. We *can't* resettle a lot of Vietnamese. We can't politically resettle Vietnamese when we are sending home illegal Chinese immigrants, many of

whom are close relatives of our own citizens, every day."

About 70 percent of the Vietnamese boat people coming to Hong Kong are from the north of Vietnam, not the south, which makes them difficult to resettle. The U.S. inundated with requests from South Vietnamese, its former allies, generally will not consider northerners. Because Hong Kong has been by far the most generous area in terms of the numbers it accepts for resettlement, departures have not matched the influx of new arrivals.

The Hong Kong government believes the vast majority of current Vietnamese refugees are simply people hoping to improve their lot by resettling abroad, or merely joining family members who preceded them. Acting on that belief, on June 15 it, too, imposed strict screening of new arrivals. Those deemed to be economic immigrants are locked up pending shipment back to Vietnam. Still, more than 7,000 boat people arrived in Hong Kong in the first two months after screening began.

"It's not legitimate to become reunited with your family by leaving in a small boat and imposing yourself on the nearest regional nation by posing as a refugee," French said. "It brings the status of refugee into some disrepute."

Many would call Tran Huu Tiep, a slight, cheery but earnest young man, an economic migrant. Tran grew up on Quang Ninh province in North Vietnam. In 1974, a year before the North Vietnamese victory over the South, he was sent to Czechoslovakia to study electrical engineering. He stayed there for five years until the government brought him home in disgrace before he could finish his degree, he said.

"They [the Hanoi government] told me I was not a good Communist and said I had to come home. I met students from many countries when I was studying there, and I began to see the world wasn't exactly like I was told by the government when I was home. I began to question why my country was constantly at war. Every year we had three periods of vacation, and all Vietnamese had to use that time for political education among ourselves. I complained at these meetings about not being told the truth and wondered why we had to fight continually."

Removed from the Czechoslovakian engineering program for political heresy, Tran said he was sent back to his home province and was told first to become a charcoal-maker, then a truck driver. When his name came up in the draft, he said he ran away to Hanoi and began to plot his escape.

"If I had to go into the army, I thought I would end up in Kampuchea [Cambodia]," he said, "and that is not the choice I wanted. I had a friend in Hanoi who had a boat, and he was planning to take some people to Hong Kong. I chose Hong Kong because it was the closest."

For nearly five years after he arrived in Hong Kong, Tran was routinely rejected in interviews with resettlement countries. He is a bachelor, a draft dodger, presumed to be unsettled in life and potentially difficult to deal with. By contrast, young children, young single women and established families are considered the ideal immigrants.

Early in 1987, however, Canada interviewed and accepted Tran for resettlement. He, of course, was ecstatic and began researching everything he could about his intended new home, becoming a fan of ice hockey in the process, he said. Even more promising, a young Vietnamese woman he has met and fallen in love with in the camp, Pham Thi Minh, had been accepted and left for Canada in September, 1986.

In preparation for his departure, Tran was sent from Hei Ling Chau to another camp for intensive English and cultural instruction. He had been there for three months when in May, 1987, another Canada-bound refugee was allowed out of the camp to pick up a few things in preparation for his trip. When the man did not return after five hours, the camp administrator asked Tran, a friend of the man's, to go out and look for him. Tran found him in a small shop having a heated argument with the Chinese shopkeeper.

"My friend said the shopkeeper had insulted him about being a refugee, and he thought he was already Canadian," Tran said. "It was all such a silly affair, and I tried to calm them both down. I thought I had settled it, but my friend persisted in arguing with him.

"The security police came, and the shopkeeper accused both of us of stealing from him. We were taken to court and given a year's probation. After court, I got a letter from Canada rejecting me."

Considered by refugee workers and administrators who know him as a model citizen and a tragic victim of the system, Tran nonetheless is now back in Hei Ling Chau sharing a cubicle with two other bachelors. With the rapidly developing new policies aimed at repatriation rather than resettlement, he may one day find himself back in Vietnam, the fate he said he feared the most.

"I'm not sure what will happen," Tran said last May. "Sometimes I think I'll never be resettled. In the camp many people know me very well, and my camp record is very clear and very good. I hope that will clear things up and the Canadians will eventually forget this past incident."

Any plans Tran once had for a future with the young woman he met in the camp are now abandoned. She is now a dressmaker in Edmonton, Canada.

"Since this trouble, I wrote her a letter saying that I don't know when I'll get out," he said. "She wrote back and said she was sorry, that it wasn't my mistake or hers, that perhaps someday I still can come. I told her in the last letter I wrote to her that she should look for somebody else."

Tran Huu Tiep told me his story in Hei Ling Chau camp six weeks before Hong Kong announced its June policy of repatriation for Vietnam refugees. Since then the camp's refugees have staged several protests, including setting small fires and, early in August, holding a three-day hunger strike involving 3,000 persons.

The gradual hardening of world attitudes about refugees usually is linked to the long duration of the wars that sent the refugees away from their homes. The humanitarian impulse to care for homeless war victims turns into resentment when, as months become years and years become decades, these victims and their camps somehow never manage to disappear.

The longer refugees remain in camps and the longer the conflicts that sent them running spill yet more victims across borders, the greater the resentment. Refugees become "economic migrants." They are called a disruptive force within the countries that give them asylum. Or they are accused of being parasites who live comfortably on the international dole.

At the end of World War II it was relatively easy to identify legitimate refugees among the 17 million homeless wandering around Europe. Those who simply left home to get out of the way were in due course returned. Those who fled persecution for racial, religious or political reasons were resettled in safe countries where they could begin life anew. They were treated by and large on a case-by-case basis.

The post-World War II refugee practice became international refugee law in the 1951 UN Convention Relating to the Status of Refugees. That convention defined a refugee as a person who, "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality."

The 1951 convention stipulated, "No Contracting State shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened" on account of the reasons mentioned above.

Since 1951, there have been more than 30 other international agreements and about 20 regional agreements dealing with refugees in specific parts of the world. The most important of the latter was the 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa.

Under international law, if any nation wishes to bar its doors to refugees, it can do so because it can exercise its sovereign power to control movement across its borders.

The OAU convention tried to deal with this by pledging that its "Member States . . . shall use their best endeavors . . . to receive refugees and to secure the settlement of those refugees who [cannot return home]."

The OAU convention also recognized that the changing nature of warfare had made identification of refugees more difficult. The 1951 definition was based on a European concept of ideological totalitarianism in the model of Hitler or Stalin, in which individuals are singled out as enemies of the state. The OAU recognized that 1960s Africa was experiencing new mass movements of people fleeing home not because they were singled out but because they were endangered by random, often mindless violence growing out of post-colonial wars and terrorism.

To deal with that, the OAU broadened its definition: "The term 'refugee' shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order . . . is compelled to leave his place of habitual residence."

Since 1969 the OAU convention generally has become the norm, though a nonbinding one, for refugee treatment worldwide.

The problem with all these international refugee agreements and protocols is that they often are ignored in the heat of conflict. Political expediency and political advantage, usually couched in terms of state sovereignty rights, always take precedence over the rights of refugees.

The refugees' only support in exile is the international bureaucracy created to house, clothe, feed and care for them. These organizations, too, evolved out of World War II and led to the creation of the United Nations High Commission for Refugees (UNHCR) in 1951.

UNHCR has a mandate to protect, assist and find "permanent solutions" for refugees. For the last several years UNHCR has operated with an annual budget approach-

ing half a billion dollars largely contributed by wealthy Western nations to share the burden with Third World nations who give sanctuary to refugees. Its staff of 1,500 handles funding and administrative organization but provides few direct services to refugees.

UNHCR contracts out the actual work in camps to about 300 nongovernmental organizations. These organizations are a diverse group of large and small units all over the world. They include such church-related groups as Catholic Relief Services, Lutheran World Relief and Quaker, Baptist and Mennonite agencies. Some have been organized specifically to deal with refugees, such as the American Refugee Committee or the International Rescue Committee. Others are humanitarian groups active in a broad spectrum of Third World development, among them CARE, Oxfam, Médecins Sans Frontières, World Vision and Africare.

By contracting day-to-day services out to other agencies, UNHCR is able to pursue the most important aspects of its mandate—providing protection to refugees and finding permanent solutions to their plight.

No international protocol explicitly prohibits nations from expelling their own citizens or denying them citizenship or livelihood in their own land. But although all human beings supposedly are protected against such depredations by the 1948 Universal Declaration of Human Rights, there are 13 million refugees who can testify that that declaration is meaningless.

Mass expulsion has become a worldwide phenomenon, a tool of governments attempting to rid themselves of opposition. According to Alan Dowty, a University of Notre Dame political scientist and the author of a 1987 book on emigration, "Closed Borders," Vietnam, Cambodia, Afghanistan, Ethiopia, Laos, Mongolia, Burma, Rwanda, Iraq, South Yemen, Iran, Uganda, Cyprus, Sri Lanka, Indonesia and Sudan have engaged in mass expulsions in recent years.

In addition, Dowty cites other nations that have no mass-expulsion policy but have nonetheless viewed the exodus of citizens as a convenient solution to their internal conflicts: Guatemala, El Salvador, the Philippines, Lebanon, Angola, Mozambique, Chad, Zaire and Western Sahara. Dowty's list is a pretty fair catalogue of the origins of most of the world's refugees.

"In all the situations taking place during the past decade," said a 1981 UN Human Rights Commission study on mass exodus, "violations of the spirit, and frequently of the letter, of the Universal Declaration of Human Rights and its Preamble must be recognized."

It is in this totally political and often vicious atmosphere that UNHCR must try to operate as a nonpolitical, humanitarian agency. Even its access to refugees is not automatic. When people begin to flee one country for another, UNHCR can provide its services only after it is invited to do so by the receiving nation.

The politics of refugees immediately came into focus when UNHCR was created in 1951: It was prohibited from taking care of 700,000 Palestinians chased from their homes in Israel. Anti-Israeli Arab nations prevented the Palestinians from falling under UNHCR care and protection because they wanted to keep the Palestinian refugee problem alive.

Under the UNHCR mandate, Palestinians might have been resettled permanently in other parts of the Arab world, making Palestinian claims against Israel academic at best. Instead, a "temporary" organization, UN Relief and Work Agency (UNRWA), has provided assistance to the Palestinian refugees for nearly 40 years.

Similarly, when Thailand, for its own political reasons, did not want to classify hundreds of thousands of Cambodians living on its eastern border as refugees in 1981, the Thais simply refused UNHCR permission to care for the Cambodians and classified them as "displaced persons." Yet another agency, the UN Border Relief Operation (UNBRO), was created to care for those people.

UNHCR has no army at its disposal to stop or prevent the cruelties of forced exile or to protect refugees in border camps from further violence at the hands of hostile armies or local residents. It has no power to force countries that become sanctuaries to provide the exiles with even minimal humanitarian treatment.

"Its only weapon," said the Independent Commission on International Humanitarian Issues in a 1986 report, "is diplomatic pressure in the form of moral persuasion, protest and, ultimately, public condemnation."

While it feeds, shelters, clothes, and tries to protect refugees, UNHCR also tries to find permanent solutions that will get refugees out of camps and allow them to resume normal lives, ideally back in their home countries or, failing that, either in the host or a third country.

The overall failure to achieve permanent solutions has meant that refugees remain in camps and settlements by the millions year after year. Usually the camps are makeshift affairs, built hastily in the heat of a crisis. Designed as temporary housing, they have, by default, become permanent.

As a rule the camps are woefully overcrowded, slapped together in rural remote corners of the Third World. The remoteness of the camps, however, can be one of their few positive aspects. It locates the refugees relatively close to where they came from, in familiar landscapes and climates and among local people who share similar cultures and languages.

The basic necessities are generally well met in UNHCR camps, which are run by skilled international technocrats. In fact, the refugees usually enjoy more plentiful and more nutritious food, cleaner water and better medical treatment than do many of the local residents. Physically, most refugees are better off than they were in their home countries.

But sustenance is a spiritual thing, too, and no amount of international aid can mend the wounds of a spirit trapped in exile. Whether it holds 180 persons or 180,000 and whether it is four days or four decades old, the refugee camp has an uncanny sameness about it, be it in the Middle East, Africa, Asia or Central America.

Open garbage ditches carrying raw sewage are the norm, as are communal toilets and spartan housing crammed so closely together there is no room for privacy or space for children to play. Always there are the long lines in front of scarce water taps, in front of food depots, in front of medical clinics. People in refugee camps spend a lot of time waiting for basic necessities.

The crowding of essentially rural people into urban slumlike enclosures, the rigid routine of camp life and the constant worrying over an uncertain future combine to make refugee existence a sort of stale, sterile half-life. Refugees spend a lot of time just sitting around and brooding, wards of international welfare.

Refugees and refugeedom have become institutionalized, despite the best efforts of UNHCR. There are now UNHCR experts in camp construction and management. Nutritionists who can devise exact diets for a given refugee population in a given climate. Medical specialists who can set up hospitals overnight and inoculate refugees by the thousands in a day. Logistics experts who can calculate the precise wear and tear on local roads and bridges from trucks supplying the camps and who can then marshal the materials and the people needed to rectify the problems. Unfortunately, there are no experts in the UNHCR or anywhere else in the world who can end the wars that create the camps and send the refugees home.

"The problem of institutionalizing refugees is due to the absence of solutions to their plight," said Jean-Pierer Hocké, the high commissioner for refugees who oversees UNHCR's operations, based in Geneva. "By allowing camps to crystallize, to become semipermanent, we allow the people inside them to become increasingly dependent on our aid.

"We try to initiate some things that will bring about some amount of self-sufficiency. Even if a farmer in a camp is only given enough land to grow 15, 20 or 25 percent of the food that he and his family needs, it allows him some dignity in life. To get out of emergency assistance in the camps as soon as possible, even if we cannot get the refugees out of them, is a goal that is important to us."

Hocké's theories on refugee self-sufficiency are not mere bureaucratic rhetoric. In camps all over the world, UNHCR administrators push the theory with hard-nosed determination, even in the face of opposition from the refugees themselves. Despite these efforts, self-sufficiency is rare.

The countries that have accepted refugees are most often destitute themselves, land-poor and lacking basic resources. Whatever land is made available to refugees is usually marginally productive at best. Often camp sites are totally barren, and for lack of land or water or both, refugee farmers find it difficult to raise crops. As for traders and businessmen in exile, they are too isolated from the normal channels of commerce and industry to find a job or nurture a small business.

The refugee's plight is complicated by their sheer numbers. Once processed and placed in a camp, they are dealt with by the numbers as nameless, faceless hordes. Despite its efficiency, UNHCR simply cannot afford to deal with them individually, as European refugees were treated after World War II. Individuals with special problems, as in any large bureaucratic undertaking, often fall through the cracks.

Idris Adem Aki, 60, is a refugee who fled to Sudan from Ethiopia's northern Eritrea province in 1976, when the Ethiopian army attacked his village. A farmer, he escaped with his wife and five children into Sudan, which was just a few miles from his home. The day after the raid he returned to his village and discovered that the army not only had burned his and every other house in his community but also looted all his possessions and walked off with his 10 cows.

Ali has been living in Sudan refugee camps ever since, the last several years in Um Gargur, a camp in an arid plain on the eastern side of the country. UNHCR and Sudanese refugee officials have been trying for some time to get the camp's 7,000 people

off the dole by encouraging them to plant gardens.

Motivating the refugees was easier said than done. Most people were willing to grow crops that would supplement the boring UN food rations, according to Eritrean officials inside the camp. But they were not willing to make the gardens into a full-blown self-sufficient enterprise.

"People here do not want to make something permanent out of the camp," one of the officials said. "People want to work with community development and improve their lives, but it is a contradiction. They want to go home, and every year they hold out for that in their hopes and dreams, thinking that maybe in six months the trouble will be over and they can return. They don't want to work hard and build up a stake in this place when their primary thought is to leave it behind. If I tell somebody to think of long-term projects, they say, 'No, I don't want to stay here a long time.' "

To encourage the garden project, UNHCR gradually began to cut the rations it gave to the Um Gargur refugees. In June 1987 Sudanese refugee officials declared the camp entirely food self-sufficient, and all rations were terminated except for "at risk" groups such as widows and the elderly. The refugees tried to grow enough, but three successive 1987 plantings withered in a drought, and the fourth was destroyed by insects.

By the time I talked with Ali in October, 1987, he and many people in the camp were complaining of chronic hunger. Ali, who has a family of nine to feed, receives a monthy bag of sorghum, which the Eritreans call *dura*, from the UN.

"Here they give me this dura, which is not good quality at all," Ali said, sitting in his mud hut with a half-eaten bag of the grain in front of him. "I used to feed my cows at home with dura like this. Smell it. It's no good. How can I expect to be healthy with this sort of food in such small amounts? It's only enough for 10 days for all of us.

"Usually I try to find work outside the camp with local farmers. If I can't find work, I ask friends to help me. If they can't help, we go hungry. It happens every month. When there is no food and I am very hungry, sometimes I sit up at night and drink as much water as I can until I vomit.

"At home I had lots of butter, milk and good crops. A person my age should be fat and strong."

The Eritreans insist that self-sufficiency projects are unrealistic. The areas in which their camps are located are marginal croplands in the best of times but are so vulnerable to drought and insects that getting sufficient harvests each year is nearly impossible.

"There are many people here who are now malnourished," said one Eritrean camp official, "and they get no assistance from anywhere. The majority of the families are in some sort of difficulty."

At its Sudan headquarters in Khartoum, a UNHCR official did not dispute that statement. The garden projects in the camps have become more policy than experiment, she said, both to cut expenses and to force refugees to take charge of their own lives again. Hard-nosed as the cutting of rations seems, she said it was the only realistic way to get people to take their farming work seriously. The drought and insect problems were just bad luck, even though they left refugees hungry.

"Under our system it can happen from time to time," she said. "We do have safeguards built in, and the adjustments eventually are made. We do a major food assessment in the camps every November, and if we discover that people are in trouble, we will increase the rations."

Pakistan is home to more than 3 million refugees from neighboring Afghanistan who live in 328 refugee "villages" of sundried-mud-brick huts. The settlements, some of them with 30,000 to 170,000 people, are more populous than all but four or five of Afghanistan's largest towns. A huge concentration of refugees lives in and around Peshawar, the main city in Pakistan's North West Frontier Province. But the majority live in camps in remote, ecologically fragile desert and mountain areas.

The UNHCR effort to feed and care for so many people is the biggest and one of the best-run refugee operations in the world. Throughout the decade-long presence of Afghans in Pakistan, there have been no famines or epidemics and little acute malnutrition.

Part of the credit belongs to the Pakistan government. The camps are completely open, with no fences surrounding them, and Pakistan allows the refugees complete freedom to enter and leave. Refugees can work for local farmers, merchants and industries to supplement their rationed existence in the camps. Pakistan, which has a well-developed federal bureaucracy, supplies 3,000 administrators of its own, who do much of the refugee assistance distribution. In addition, Pakistan itself pays 48 percent of the daily operating costs of $1 million a day.

The war in Afghanistan has gone on so long, however, and the refugees have become such permanent fixtures that outside contributions for their care began to diminish in 1987, forcing UNHCR into some grim cutbacks.

Last year, for example, UNHCR stopped distributing tea and sugar in the camps to save $5 million annually. A seemingly trivial thing, the tea and sugar served two basic needs in the camps. Much of the water used in the camps is tainted, taken from irrigation ditches and rivers because refugees become impatient waiting in the interminable lines at scarce safe-water wells. Impure water is the most common cause of diarrhea, the No. 1 child-killer in the camps.

Refugee workers had used the tea to train refugees to boil impurities out of their drinking water, but they also worry that no more tea means the loss of one of the few social pleasures refugees have to break up the suffocating monotony—neighborly conversation over a shared pot of tea.

UNHCR also has been forced to make drastic cuts in its rations of powdered milk for refugee children and of kerosene for lighting and heating. Those two cutbacks save $2 million and $8 million a year, respectively.

"For our operations here, we are 100 percent dependent on donations from governments and nongovernment agencies," said a UNHCR official in Islamabad, Pakistan's capital. "We have very little regular budget, only the salaries of our essential personnel. Our cutbacks represent a saving of $15 million a year. That is a lot of money with which you can do a lot in public health, sanitation and education. Do you provide more clean-water systems in the camp or a couple of tons of tea every year?"

With a diminishing budget and with arable land so scarce in Pakistan, UNHCR cannot make the refugee population self-sufficient. The only food assistance refugees now get from the UN comes in the form of wheat and cooking oil, which are generously rationed so refugees can trade the excess on local markets for meat, vegetables and fruit.

Through the 85 international voluntary agencies that help run the camps, UNHCR has begun income-generating workshops in carpetweaving, carpentry, mechanics and other crafts. These are designed to give the refugees income and something to occupy their time. The workshops have worked well as far as they go, but they touch the lives of only a small percentage of camp inhabitants.

The essentially urban nature of the large Pakistan camps is totally unnatural to Afghans. At home they lived in remote mountain valleys, each family's house hundreds of yards from the next, each community made up of closely interlocking families and clans.

Camp life in Pakistan has been particularly hard on Afghan women, who must observe Muslim *purdah* and cover their faces with a veil when in front of men who are not close relatives. In rural Afghanistan, observing purdah is not so much a problem because even neighbors are likely to be close family members. Women can go outside during the day without veils and other restrictions. But in crowded refugee camps, men do not like women to leave their huts at all.

"The stress is incredible on village women," a Western volunteer said. "We have been developing craft workshops expressly for women so they can get a little bit of extra income but also to give them a chance just to get out of their houses once in a while. We have had a terrible struggle to overcome the objections of the *mullahs* [Muslim religious leaders], who don't want the women out of their houses under any circumstances."

The mullahs push to maintain the Afghan rural tradition of sending a husband to the doctor when his wife is sick. "There have been instances," said the volunteer, "when the mullahs said they would rather have their womenfolk die than allow them to be examined by a male doctor, and subsequently all women disappeared from the clinics. This has created terrible friction over health care for small children. If the mothers aren't there, we can't teach them anything about effective home remedies and preventive practices such as oral rehydration or nutrition.

"Oddly enough, we have been able to use purdah to introduce some living improvements in the camps. In Afghanistan, villagers relieve themselves in the fields near their homes, and that is what they have continued to do in the camps. But in the camps, the women have had to wait for nightfall or get up before dawn to dash outside in the dark. The whole practice has created enormous health hazards, as you can imagine.

"We have introduced family pit latrines for each house that eliminate the pollution. After initial resistance from the mullahs, who didn't see how it fit into the traditional way of things, the project began to succeed when men saw that their women would not have to leave their houses to relieve themselves."

Most women have been in the camps from six to eight years, however, and the experience of being held virtual prisoners in their own homes for that long has taken its toll.

"There is a lot of despondency and of uncontrollable, spontaneous weeping," said the volunteer. "When you ask them what is wrong, they don't know. They don't see

camp life and purdah as part of the problem. Some of the mullahs have said that if women had kept stricter purdah in Afghanistan, the Russians wouldn't have invaded. God is punishing them, in other words. It makes women feel all the worse."

Their prolonged stay in Pakistan has, of course, created problems for everybody in Afghan exile society. At any given time 40 percent of all married women between 15 and 45 are pregnant, according to one study. There is little for children to do. The girls, by and large, are not allowed to attend school. The boys, their hearts set on becoming soldiers, drop out as soon as they are old enough. The soldiers come home to bury their dead at the edge of the camps in cemeteries that resemble burial grounds of American Plains Indians, bristling with tribal flags attached to long poles staked into the ground.

"What is going to happen to a generation of men who now know nothing but war?" asked a Western aid worker. "What is going to happen to a generation of children who know nothing but life in a camp? Whether they like it or not, whether they win the war or not, these people are eventually going to have to go home, and their lives have been fundamentally changed by this experience."

Dr. Mohammed Azam Dadfar, an Afghan physician who now runs the Psychiatry Center for Afghans in Pesawar, said a psychological disorder he had labeled "refugee camp syndrome" had reached epidemic proportions. The refugees have relied so long on outside assistance, he said earlier this year, that they now suffer an overwhelming sense of dependency.

"We've become a paralyzed people, a nation of souls bought and sold by distant powers," he said. "The principal cause of distress is the pervasive atmosphere of life in a border society, a place of refuge that is strangely both temporary yet all too permanent. The camps are wells of frustration, of unresolved grief. It leaves the patients with a bleak view of the future, therefore they feel no urge to exert themselves."

The same sort of cultural paralysis has set in among the Hmong, the mountain tribal people from Laos who have fled by the tens of thousands into northern Thailand. The Hmong were closely allied with the U.S. Central Intelligence Agency's clandestine war in Laos during the American involvement in the Vietnam conflict.

When the Communists came to power in Laos in 1975, they turned on the Hmong for their American connections. Wholesale Communist bombing, raiding and murder inside Hmong settlements after 1975 set off their exodus to Thailand. And the Hmong were among the first groups that the U.S. wanted to bring to America for resettlement.

Of all the people the U.S. has allied itself with during the Vietnam War, the Hmong proved to be the bravest and most selfless and incorruptible. They tied down enemy forces far beyond their own numbers and saved the lives of countless American fliers shot down over Laotian jungles. America believed, rightly, that it owed something to the Hmong.

The problem is the Hmong themselves. More than 80,000 have come to the U.S., but while their numbers in Thai refugee camps keep rising, they have come here only reluctantly and slowly. In their native Laos, the Hmong were an extremely isolated, primitive mountain society that did not see or use the wheel until World War II. They are a polygamist, animist, traditionbound people who, like the Afghans, are organized by clans.

Moving to America is not particularly desirable, and the Hmong clan elder know it. Those who have come to the U.S. have not adjusted well to life in a freewheeling, high-tech, Christian, monogamist society. The children adapt, as all children do, but the older people long to go home. They write to their friends and relatives in the Tai camps of the difficulties in America.

To see the 75,000 Hmong now lodged in the Thai border camps is to see a whole culture unraveling. Old men, the family and clan leaders, stand warily outside interview centers for possible emigration to the U.S. They are afraid to go inside because they don't really want to emigrate, hoping that somehow, someday they can go back to Laos. If they do go inside, they sometimes sit answering questions with their backs to the interviewers, perhaps to show that their hearts are not really in it.

Their children, many of whom have grown up after 10 years in the camp and now have families of their own, are increasingly frustrated with their fathers' uncertainty. There is no life, no education, no opportunity in the camps. The Thais have begun hinting they may soon resolve the problem simply by pushing all the Hmong back to Laos. The children want to go to America before that day of reckoning comes, but if their fathers say they cannot, they will not go on their own.

Ban Vinai is the largest of the Hmong camps in Thailand, housing 42,000 people in a hilly, pictuesque jungle area where the Mekong River separates northern Thailand from Laos. Songleng Chang is the 62-year-old head of the Chang clan in the camp. He has been living in Thailand since May, 1979, when, he said, Communist soldiers began harassing and robbing people in his village, threatening his family in particular because of his position as head of the clan. He fled with two wives, two sisters, two sons and their wives and two grandchildren, all of whom remain in Ban Vinai.

"Many people left when we did, maybe 1,000 of us," Chang said. "We walked for 12 days until we reached the Mekong. We had to make boats out of bamboo to cross. One person would have two pieces of bamboo lashed under his arms, and he would use his hands to paddle. We lashed the old people and the babies to the younger ones. Some young men had to keep recrossing to bring the babies across."

Chang has seen many people leave Ban Vinai for the U.S., including relatives who now live in California, Minnesota, Wisconsin and Michigan. He has never gone for an interview with U.S. immigration authorities.

"I've decided not to go yet," he said, though he admits life in the camp is unbearable for most people who have been there for a long time. "I'm so bored. I want to go into the forests and hunt, but they won't let you do that here. I want to plant by fields, but they don't have land here for us to plant. In Laos we could hunt and plant any time we wanted to. In this camp or in another country, the Hmong can't farm anymore."

Charming and almost docile in demeanor, the Hmong also have a stubborness about them. Health workers are chagrined because elders have decided that modern medicines and inoculations are themselves dangerous, disease-bearing agents. As a result, it took camp doctors from 1984 to 1988 to increase inoculation coverage of children from 4 percent to 20 percent. At the same time, the overcrowded camps have been outbreaks of measles, tetanus, diphtheria, tuberculosis, polio and whooping cough.

Suicide rates in the camp are high, principally among women aged 15 to 25 who are forced into arranged marriages. Many of the adult men have turned to opium, which may be a way to escape anxiety over the future but is also a sure route to rejection by American immigration officials.

"It is a real pity," said Dr. Andre Veneman, a Dutch physician working as a camp medical coordinator.' "You can see that when fathers smoke opium, their children look worse off. Whatever money they manage to get goes to their habit, not to their families. We see a real breakup in society here. The best people leave, the rest are deprived of their leadership."

Still the Hmong continue crossing the Mekong illegally and setting up households in camps like Ban Vinai without registering with UN or Thai officials. By not registering, they have no hope of resettlement in the U.S., but they also avoid the risk of being forced to return to Laos.

Concerned about the continuing influx, Thailand earlier this year accused Laos of deliberately trying to rid itself of all Hmong. Last year the U.S. UNHCR and Amnesty International accused Thailand itself of serious human rights violations when it forced Hmong refugees it considered illegals back to Loas. One group of 33 people, shoved back across the river by the Thais, were shot to death on the banks of the Mekong by Laotian soldiers. The massacre came to light only because passing Thai fishermen stumbled on the only survivor, an 8-year-old girl.

Political reality gives men like Chang only one real option, resettlement in the U.S. But he won't take the necessary steps to leave. In a long meandering conversation, Chang came up with any number of reasons why he shouldn't go to the U.S. As he named them, you could almost hear the echoes of years of tortuous family discussions and arguments about going or staying. Finally he concluded: "I am just going to wait for Laos to reopen. I don't know when we can go back. We're just waiting. I'll wait here as long as I can. I can't permit my childen to go [to the U.S.]. I have told them they must stay with me until I make my decision. If the father cannot go, the son cannot go. He depends on the father."

Westerners working with the Hmong in the camps, however, believe that is the compelling reason older Hmong are reluctant to leave for America. "They get letters from relatives in the States all the time," said one refugee worker at Ban Vinai. "The news is bad for the older people. They know the older ones in the States are just too old to master English. They get there, and all of a sudden they have to depend on their children to get by in life. The kids learn the language, the kids dial the phones, do the talking, drive the cars. The kids get the jobs and bring home the money. It flies in the face of their tradition. It means the older ones will have to relinquish family leadership. They will never be the head of their families again. They will not be the boss."

Chang's oldest son, Lee, 30, himself married to one wife and the father of five, would not be so brutally frank about the reasons for his father's reluctance to go to the U.S. Nevertheless, he said he is ready to break tradition—and, perhaps, Chang's heart—by disobeying his father.

"Right now I've decided to go to the U.S. independent of my father. We have been in this camp too long, and I am at an age when I have to make my opportunities in the U.S. before I am too old. I will try to explain to my father the reasons why I am going. If he understands, maybe he will go with me. I wouldn't want to go without him and my mother.

"Right now he is wavering again. He thinks he can't go because he can't speak English, so he won't be able to work. It is very difficult for him."

The Hmong experience is one of the more horrible legacies of modern proxy warfare. The Hmong were courted and used in a war by a larger, richer, more powerful society—America. America lost a war; the Hmong probably lost everything. While the U.S. works vigorously to make amends with individual Hmong, the Hmong culture may not survive, not in Thailand, not in the U.S. and possibly not in Laos.

The Hmong reluctance to accept resettlement in the U.S. is odd when viewed against the belief of refugees elsewhere that America is morally obligated to take them in. The streets of Karachi, Pakistan's teeming port city, can be as mean as any in the world if you are broke, homeless and desperate to escape. Karachi is the home of Pakistan's "other" refugee problem, some 10,000 Iranians who have fled Ayatollah Khomeini's Iran.

Some are legitimate refugees, usually members of minority religious groups singled out for persecution by the Khomeini regime, including Jews, Bahais and Christians. They are relatively easy to resettle in Europe, Israel and the U.S.

Others are far more difficult. Members of two Marxist Muslim sects that have been hounded to near-extinction in Iran, the Mujahideen Khalq and the Fedayeen Khalq, have found sanctuary in Karachi, where they have remained as unreconstructed, violent radicals. Nobody else in the world wants them, though Iran's archenemy, Iraq, has funded their activities in Pakistan, enabling them to buy houses in some of Karachi's best neighborhoods.

Their presence last year set off a national debate in Pakistan about the nation's generosity to the displaced. It came after an Iranian hit squad launched a full-scale bomb, rocket and machine-gun attack on a Mujahideen Khalq house early one morning, rudely awakening the refugees' neighbors, including some of the most influential families in Pakistan. The battle transformed one of Karachi's wealthiest suburbs into an Iranian battleground for a few brief, bloody minutes.

No matter how well-run a UNHCR operation can be in any given country, people who need services fall through the cracks. Perhaps 200,000 Afghan refugees live in Pakistan without being registered with UNHCR. Many, perhaps the majority of them, do so out of choice, usually because they want to live in a city and find work on their own, rather than being stuck in a rural camp.

Tens of thousands of them, however, are in desperate need of UNHCR assistance but are blocked by Pakistani corruption. Nations of first asylum can write their own rules. Pakistan uses its own civil servants in all phases of the Afghan refugee effort, including registration for UNHCR benefits.

Registration officials are thought to charge Afghans "registration fees" of up to $200 per person at some points on the border. If the refugees don't pay, they don't get ration cards or a place in a UNHCR camp.

The knottiest problem here for UNHCR, however, is the thousands of Iranian boys and young men who have traveled dangerous roads to escape the draft and the war against Iraq. Draft dodging is not a legitimate qualification for refugee status, no matter whose war is being avoided. Most of these young men are from wealthy or middle-class Iranian families who supported Khomeini's predecessor, the late Shah Pahlavi. Many have family members in the U.S. and desperately want to get there. Their parents have the money to smuggle them out, but once they are inside Pakistan, UNHCR can do little for them.

"The big problem is that UNHCR doesn't accept draft dodgers as refugees," said a UN official in Karachi. "Their cases as refugees are rejected, but Pakistan allows them to stay unofficially to work out their own lives."

The truly rich get themselves to Europe or the U.S. rather easily. The majority become a sort of nonpeople, prey to all sorts of con artists and Karachi lowlife.

Hamid Reza Hashemi arrived in Pakistan from Mashhad, Iran's third largest city, in October, 1986, when he was 15 years old. Hashemi is the youngest of seven boys born to a Mashhad businessman. Three brothers already live in New Jersey. Another brother, Saeid, 22, followed him out of Iran in November, 1986, and remains with him.

Hashimi said he was arrested by Iranian secret police a few months before he fled to Pakistan. He had been attending high school in Mashhad and had joined a pro-shah underground protest group after 36 boys from his school had been forced to join the army. He said he was arrested one night when he was caught placing photographs of the shah's son on windows of parked cars. He was detained for 24 hours and beaten severely, he said, then released to a hospital with broken cheekbones and whip lacerations.

After a week's recovery, he said his parents told him he would be safer if he left Iran. They scraped together $2,000 to pay a Baluchi tribesman to take him into Pakistan. The escape routes, however, are well-traveled not only by draft dodgers but by bands of smugglers operating on both sides of the border, and it was Hashemi's bad fortune to stumble into a running, three-day gunfight between drug smugglers and border guards as soon as he got into Pakistan.

"We kept trying to avoid the fight by running from one mountain pass to the next," Hashemi said, "but each time we arrived at a new place, the fight would come our way. One day when we were running, I became separated from my guide. I became lost and wandered for four days by myself. A car full of Pakistani border police found me the first day and arrested me. They told me they were taking me back to Iran and drove for half an hour toward the border. When they stopped, they asked me how much I had. I took off a shoe and showed them an American $100 bill. They took it and let me out of the car."

Hashemi was lucky. UNHCR accepted the documentation he had brought with him that showed his arrest and subsequent hospitalization in Iran and proved that he was not just a draft resister. He received a coveted "blue" card from the UN identifying him as a refugee and granting him a living allowance of $60 a month and the chance to seek third-country resettlement by legitimate means.

Hashemi studied English in Islamabad for 17 months, then joined his brother in Karachi. They get a little money from home, but they must stretch their budget by sharing an $11-a-night room in a third-class tourist hotel with four other Iranian boys. There are no jobs for them, and they cannot finish school in Pakistan, so they idle away their time.

Nobody much wants them. Hashemi had an unsuccessful interview with Swedish authorities, but he and his brother most want to go to the U.S., where three older brothers got asylum while attending colleges. The U.S., however, won't interview them.

"The U.S. says they will only take Bahais, Jews and Christians but no Moslems," Hashemi said. "We don't need America to pay us anything. Just to go there as refugees and go to school so that we can be with our brothers—that is all we want."

The Iranian draft dodgers are fair game in Karachi. Pakistanis and Baluchis approach them in hotel lobbies and coffee houses, offering them forged and stolen travel documents ($350 for a Pakistani passport, $1,100 for a European one). Most Pakistani immigration officials can spot the bogus travel papers, so bribes—as high as $1,500—are arranged to get them through the gates.

The whole process has bankrupted many families in Iran. Usually the exercise is for naught, anyway. European airline personnel, trained to spot phony travel documents, refuse to take the boys on board. Should they get through to Europe, most are caught by immigration officials and returned to Pakistan and end up with a jail sentence. Worse still, many of the document peddlers are in collusion with Karachi airport officials, who arrest the boys there (after bribes change hands, of course) and send them to jail for six to nine months.

With legitimate refugee papers, Hashemi and his brother eventually have a chance for a bona-fide resettlement offer. But hundreds of draft dodgers live in seedy rooming houses in an area of Karachi called Lee Market. A burly Iranian army deserter named Asghar lives there, sharing a 40-square-foot room with five other Iranians. None has a UN refugee card, so they pool whatever resources they have to pay the $50-a-month rent and buy food. They share three cots, taking turns sleeping on the floor. A filthy toilet and washbasin are in the hall, shared with other tenants in the roach-infested building.

Asghar remains in Pakistan illegally as he tries to get to Amsterdam, where he says he has a wife and two children who emigrated legally in 1985, a year before he deserted from the army. At 34 he is the patriarch of his room. The next oldest man is 24.

Asghar takes a paternal interest in the two youngest, who are brothers, 15 and 19 years old. Their parents happened to be in England when the shah left Iran, and they remained there, he said. They finally arranged their sons' escape to Pakistan in 1986, but the boys arrived with no documentation or passports, so they are trapped in Karachi.

"I am going crazy sitting in this place, but I am even more worried about those two," Asghar said, nodding at the youths. "There is a lot of heroin in this neighborhood, and I am afraid they are giving up on hope. Right now I won't let them out of the building. Last week the younger one got into trouble on the street. A man offered to give him 1,000 rupees [$60], asking the boy to go with him.

"Somebody told me what was going on, and I ran down to the street and tracked them down. I found this Pakistani, this pimp, who was going to take this boy and turn him into a prostitute. I handled that my own way. You can't go to the police here if you don't have a UN blue card. That will just draw you into deeper trouble.

The moment a person steps across a border to seek asylum in another nation, he is supposed to be protected by international protocols. In theory, such a person cannot be sent back against his will, at least until his case is examined. In practice, with so many of them coming continuously, most refugees don't get individual hearings.

Most of those granted ayslum are protected by UNHCR against forcible repatriation, military attacks from their home countries and legal and economic exploitation by the host nation—theoretically. In practice, it rarely works that way.

International legislation drawn up after World War II assumed that the countries granting asylum would also provide the same legal, police and military protection they extend to their own citizens. But today's host countries often are too poor to provide such services even to their own citizens. When refugee camps are attacked by military forces or local citizens, UNHCR can do little but protest.

Officially there are about 500,000 Eritrean refugees living in Sudan. Unofficially the figure is far higher, as tens of thousands of Eritreans move into larger cities and towns without documentation, seeking work in the local economy. For the most part they are the urban, better-educated, better-trained Eritreans who were never farmers and for whom extended stays in isolated, rural camps is a form of ghastly torture.

In Port Sudan, a city of 300,000 and the nation's major seaport, for instance, 60,000 Eritreans live and work without direct UNHCR assistance. They live mostly in segregated refugee slums, cramped shacks and hovels without sewers or water, eking out a living from low-paying jobs. The UN helps by funding schools, hospitals and health clinics in the city, which is supposed to offer services to refugees as it would to citizens.

"The refugees are in fact sharing everything with the Sudanese people in the city," said a Sudanese refugee official. "Even the job market is open fully to them to compete equally with people in the town, and people complain that wages stay low because of the big labor market. The city's infrastructure was very fragile to begin with, and the refugees have overburdened it.

"It can't handle the additional sewage problems and the demands on electricity. The additional population drives up prices on everything. During our recent drought, everybody was looking for safe drinking water, and the sellers were getting [75 cents] for each pail. Rent for a house that should be [$14] a month now costs [$70] a month.

"At first refugees were accepted warmly in Port Sudan, as it is in the tradition of the people here. Now, after all these years and the worsening of economic conditions for Sudan, this warm welcome has changed. Now there is resentment against all refugees, especially in the towns."

In Khartoum, Sudan's capital, police periodically round up Eritreans without residency or work permits. Eritrean community leaders complain that their people are regularly shaken down by corrupt police officials. Refugee women in the city, they say, are sometimes gang-raped by police and told not to complain under threat of deportation to remote camps.

"Any man on the street can come up to you and identify himself as a policeman," one Eritrean said. "He can harass you and even rob you, and you have no recourse. Policemen can come into your house and rob you, and you have no recourse. You can't go to the courts and charge them because you yourself will be charged with having no papers and no right to be where you are. So you just keep your mouth shut and try to stay out of people's way."

On May 27, 1987, six off-duty Sudanese soldiers in civilian clothes entered an Ethiopian refugee camp not far from Gedaref, a busy market town in the eastern part of Sudan. The soldiers went to the camp to get what they cannot get on the Sudanese market—liquor. Under Sudan's Islamic law, the sale and consumption of liquor are strictly illegal, but in the camps, the refugees make a traditional Ethiopian wine for their own consumption.

According to all accounts, the Sudanese soldiers had a good time at the camp drinking much of the night away in a makeshift bar set up by a refugee. At the end of the night, the soldiers left the bar without paying but were surrounded by angry refugees before they got out of the camp. After an argument, the military men were soundly beaten for their arrogance but allowed to leave.

On May 28 rumors began to spread in the area that six Sudanese soldiers had been murdered in the camp by refugees. When the rumor hit Gedaref (a town of about 75,000 people with 7,000 unregistered Ethiopians who get by working in tea shops and as house servants), angry mobs of Sudanese began to gather.

"That night a mob gathered outside the local cinema," said an Ethiopian refugee who works for a European humanitarian agency in Gedaref. "When people came out of the cinema after the last film, they began to single out and beat any refugee they could find in the crowd. They used fists, stones and sticks.

"The next day it spread throughout the town. Any refugee found on the street was beaten. No refugees dared leave their homes, even to go out and buy food. In some cases, the mob was joined by soldiers, who went right into refugee houses and beat and robbed the people, raping the women. On Saturday, May 30, a man was beaten to death by a plainclothes policeman, and dozens of refugees were picked up and thrown in jail without charges.

"The violence continued for 15 to 20 days. You couldn't move on foot or by vehicle. The official toll was one person killed in the town, and hundreds were injured. It got so far out of hand that finally the governor of the province had to come to the city to tell the local people the truth, that no soldiers had been murdered in the camp. But he did nothing to punish them for the violence they did to the refugees here. No Sudanese were arrested, no investigation was made. Instead, he blamed the refugees for the problem because they made the liquor."

The last decade is rife with incidents of governments sending their armies across borders to attack UNHCR refugee camps on punitive raids. Guatemala has sent expeditions into Mexico against Guatemalan refugees. El Salvador has sent troops after its own citizens in Honduras. Uganda has murdered Ugandan refugees in Sudan. Vietnam has attacked and shelled refugee camps in Thailand. Afghanistan sends terrorist bomb squads and assassins after Afghans in Pakistan.

When such incidents occur, UNHCR can only protest through diplomatic channels and public condemnation through the press.

Public censure, however, is almost pointless when the raids are conducted by rebel groups beholden to no government or international organization, as is the case with Renamo in Mozambique. One seldom encounters armed soldiers anywhere in Malawi, a rare and welcome treat in security-conscious Africa. Certainly Malawi cannot afford to garrison its 300-mile border with Mozambique to protect refugees. That makes the camps easy pickings for Renamo soldiers.

"Renamo sometimes crosses into Malawi to steal food and cows from the refugees," said a Malawi government official in the Ntcheu District on the country's western border with Mozambique. "Two and a half weeks ago the wells on the Malawi side went dry, and a group of refugees went [1½ miles] inside Mozambique to their old wells. They were caught there by a group of Renamo soldiers, and two of them were shot to death."

The vulnerability of the refugees in Malawi came home personally to me last November when I toured camps in the Ntcheu district with a British journalist and a British doctor. At the end of a long day, we headed out of the area in a government vehicle. I noticed a group of refugee women taking water from a well 20 feet inside the Mozambican border, the road on which we were driving. I asked the driver to stop so I could photograph them. Having done that, I asked one of my companions to photograph me standing in "war-torn" Mozambican territory.

The doctor, a knowledgeable veteran of several years of refugee work, chided me for my horseplay. Two days later, we discoverd that Renamo soldiers apparently had watched our impromptu stop, and 10 minutes after we had left, raided the camp from which the women at the well had come. They took several cattle and half a dozen people back to Mozambique.

UNHCR's inability to protect refugee groups ironically has led to the most "successful" solutions of at least two long-standing refugee problems in Sudan and Honduras.

Between 1979 and 1982, following Idi Amin's downfall, about 350,000 people fled from Uganda's northwestern provinces into southern Sudan. Many were from the Arua district of Uganda, which happened to be Amin's home province. Though most were apolitical peasants and tradesmen who had little or no connection with Amin's government, they were singled out for revenge by the new government of Milton Obote. Arua became the scene of horrendous crimes as Obote's army stripped the province bare, literally razing entire towns and villages and robbing, killing and raping along the way.

The exodus from Arua to the Sudan was, as all refugee movements are, a harrowing one. People were murdered as they fled from pursuing Obote troops. As they crossed the border, many refugees were robbed by Sudanese border guards of whatever possessions they had managed to bring with them. UNHCR was totally unprepared for the exodus, and it took years to set up adequate camps.

But the Ugandans happily discoverd that they had moved to a vastly underpopulated, fertile part of the world with abundant if untapped water supplies. Through their

years in exile, they began to do something that rarely happens with refugees in the Third World. They began to prosper in their new land.

In 1985 a civil war broke out in southern Sudan. The southern Sudanese tribes, Christian and animist alike, rose up in revolution against the Sudanese government in Khartoum, which is dominated by the nation's Arab Muslim majority. The Ugandan refugees, the majority of whom are Muslim, again found themselves being singled out for violence.

Since 1985, the Ugandans have been running again, trying this time to get back into Uganda. Obote has since been kicked out, and the new Ugandan government has guaranteed their safety, but the Ugandans understandably have been wary. More than half have already returned, but to all, it has been a painful dilemma: Which side of the border—Sudan or Uganda—holds the most danger?

Early last November Alemi Quick, 30, brought his two wives and nine children back to Arua from Sudan on a truck convoy organized by UNHCR for several hundred returning refugees. He hadn't been in Uganda since February, 1982, he said, when Obote soldiers raided his village, looting, burning and murdering the occupants, including his grandmother.

In Sudan, Quick said life took a turn for the better. "I was given some land to farm, and every year we had a good harvest," he said. "The soil had different nutrients for crops, better than what we had at home. I had no interest in coming back to Uganda because it was comfortable there."

On July 17, 1987, however, a unit of the rebelling Sudanese Peoples Liberation Army (SPLA) surrounded the refugee settlement where Quick's family lived. "They started grabbing men in the village and beating them up," he said. "I was given strokes with a stick and hit with a gun barrel. They took all my possessions and money, and forced me to go with them by foot through the bush to their camp in Zaire. I was taken as a porter."

After several days in captivity, he was allowed to return to Sudan, he said, where he immediately went to UNHCR and filled out an application for repatriation to Uganda. The convoy he and his family returned with was laden with hundreds of bicycles, generator motors, tools, pots and pans—ample evidence of the prosperity the Ugandans had found in Sudan. Quick was not so fortunate; most of what he had accumulated in exile had been stolen by the SPLA. He was grateful for the survival package UNHCR gave to each returning family: pots, pans soap, buckets, machetes, axes, scythes, blankets and plastic tarpaulins to make temporary shelters while they repaired their old homes in their Ugandan villages.

The returning refugees were brought to a processing center in Arua, where UNHCR personnel registered them with Ugandan authorities. They arranged for the refugees to recover the lands they had abandoned when they fled Obote's troops and for transport there within a day of their return to Uganda. It was a neat and quick operation, an efficient end to several years of exile, though most of the refugees displayed little overt jubilation about being back.

"I have been told there will be no problem recovering my old farm," Quick said as he stood in line waiting to pick up his survival package. "I'am happy to be home, but now I have to start all over again for the third time in my life."

A similar repatriation process is now underway in Central America. In this case, however, the repatriation is by boat and canoe, as Miskito Indians return from exile in Honduras across the Coco River to their traditional lands in Nicaragua.

The Miskitos are a tribe of 100,000 Indians who live along both sides of the Honduran-Nicaraguan border. Until the Sandinista regime came to power in Nicaragua in 1979, the Miskitos had remained relatively untouched by the long series of Central America revolutions.

Once in power, however, the new Marxist Sandinista government embarked on a clumsy program of reorganizing and collectivizing the Miskitos. The Indians resisted this move, and many of them joined the U.S.-backed contra forces fighting the Sandinista regime.

The Sandinistas reacted quickly and harshly against the Miskitos, running large-scale military operations through the Indians tribal areas inside Nicaragua and forcing whole villages at gunpoint to move to "resettlement" villages far from the tribal lands. By 1983, 30,000 Miskitos had fled Nicaragua, settling among their fellow tribespeople in Honduras. About half settled in UNHCR camps and the rest in their own jungle communities supported, at least in part, by the contras.

By the end of this year, UNHCR officials in Honduras think that most of the 30,000 Miskito refugees will have returned to Nicaragua not so much because they think the Sandinista government will leave them alone but because Honduran soldiers began harassing them early this year.

As thin a veneer as it sometimes proves to be, protection is at least part of the UNHCR mandate. For political reasons, protection was pointedly left out of the mandate of the UN Relief and Works Agency (UNRWA), which cares for displaced Palestinians in the Middle East. Politics, too, left protection out of the mandate of the UN Border Relief Operation (UNBRO), which cares for the 300,000 Cambodians inside Thailand.

Palestinians refugees were excluded from UNHCR's jurisdiction when the agency was being formed in 1950. The Palestinian question was so politically volatile that organizers feared it would corrupt the "purely humanitarian role" envisioned for UNHCR. By creating UNRWA and denying it a protection mandate, the 2,300,000 registered Palestinian refugees living in their Middle Eastern diaspora have had at best, only second-class citizenship in the world.

Since the 1967 Arab-Israeli war, 650,000 Palestinians have lived under Israeli military occupation in the Gaza Strip with no citizenship at all. They have no rights; they have no representation in any body that enacts laws governing their life; they have no access to appeal when they feel they have suffered legal or physical injury from the Israeli military government.

Mota Jeidi is a 61-year-old shopkeeper in Rafah Camp on the southern end of Gaza Strip. As a young husband of six months in 1948, he fled with his wife from his native village in what is now Israel during the Israeli war for independence. He had fought as an irregular against the Israelis, drawing on his previous experience as a police railroad guard for the British Palestinian protectorate government.

Having fought on the losing side, Jeidi and three brothers had to abandon their 60-acre family farm. Three of the brothers ran for Gaza; the eldest, for Jordan. They have been separated ever since. For the first few years, Jeidi and his family lived in a series of tents, eventually building a more substantial house in Canada Camp near Rafah, raising three sons and a daughter. In 1982, when the Israelis wanted to build a road as a demarcation line between southern Gaza and neighboring Egypt, the surveyor's line went through Jeidi's house, and it was condemned.

"They paid me $1,000 for a house that had cost me $30,000," Jeidi said, "and they gave me an empty lot of 200 square yards in another housing project. I had no choice but to build a new house there.

"On the 20th of December, 1986, the Israeli security forces came at 3:30 a.m. to my new house. They found me and my children home, except for one son, Khalid [then 20 years old]. They asked me for Khalid, and I told them I didn't know where he was because I had gone to bed early. They told me they were taking me to jail and leaving me there until he showed up."

The next day, he said, the security forces jailed his wife, his two sons and his daughter as well because Khalid still had not appeared.

"After a week they came and told us that they had caught Khalid, and they released us," he continued. "Nobody told us what he was wanted for, where he was being held or what was happening. We were told nothing. On Feb. 11, 1987, the Israeli forces came back to my house and cordoned off the whole neighborhood at about 1:30 p.m. I had been at home waiting that day for the ICRC [International Committee of the Red Cross] to come and give me news about where Khalid was being held and what was happening to him.

"They [the Israelis] came in Jeeps, along with a bulldozer. They told me they had orders to demolish my house. I was told, 'You have only one half hour to remove what you want to save, otherwise everything that is left inside will be destroyed with the house.' I asked them: 'Why? What was my crime to deserve this?' They said they had to punish me as the father of Khalid because he had committed several crimes against the security of Israel."

Jeidi started pulling out what he could from the house, and precisely half an hour later, he was ordered to stop, and the bulldozer went to work. It took 15 minutes to pulverize his home. Five more months passed before Jeidi learned the charges against his son, he said. In July, 1987, Khalid was tried, convicted and sentenced to life in prison for stabbing two Israeli settlers to death in an open-air market in Gaza.

The Israeli military government in the Gaza Strip is a grim, no-nonsense presence that looms over every facet of life of the territory. There is no pretense of civility when Israeli soldiers issue out of their heavily guarded, fortified quarters inside Gaza to make their daily patrols. The soldiers treat the Gazans with withering contempt and stop them randomly. The Gazans are mute; but there is deadly fury in their eyes as they produce identity cards on demand. For 20 years Gaza Strip was an untended pressure cooker waiting to explode. And last December it exploded with a force that shocked not just the rest of the world but the Israelis and Palestinians themselves.

The rest of the world was stunned by the severe Israeli crackdown inside the occupied territories after refugee youths rose up in Gaza last December. Led by students, the Palestinian *intifada* against Israeli occupation troops continues.

More than 250 Palestinians and six Israelis have died in this conflict. Hundreds of Palestinians have been severely beaten by Israeli troops in a deliberate pattern designed to quell the unrest. Scores of Palestinians believed to be leaders of the uprising have been separated from their families and expelled. Thousands have been imprisoned under a policy of preventive detention whereby they can be held up to six months without formal charges. Dozens of Palestinian homes have been bulldozed by Israeli troops because an occupant of the house was suspected of "crimes against the security of Israel."

Israel has used each of those instruments of suppression in Gaza throughout its 21-year occupation. More than a year before Gaza uprising erupted last December, the Independent Commission on International Humanitarian Issues urged that more attention be paid to protecting the dispossessed Palestinians. The commission went so far as to suggest having UNHCR replace UNRWA so it could protect Palestinians from Israeli abuses.

"The events of recent years have illustrated a desperate need for the physical protection of civilian refugees, a role for which neither UNHCR nor UNRWA is adequately equipped," a 1986 commission study said. "The protection needs of the Palestinian refugees are not limited to physical protection. They include the protection of their fundamental human rights, and some very complicated problems stemming from the statelessness that many of them suffer. . . ."

Late in September, 1987, more than two months before the *intifada*, a Western administrator of refugee programs in Gaza described his suspicions of a coming Palestinian revolt. For more than a year Gazan youths had been engaged in escalating civil disobedience, and Israeli troops in turn had escalated their responses.

"UNRWA is charged with maintaining the status quo in Gaza," the administrator said. "It spends about $40 million annually here, 70 percent on education, 20 percent on medical and 10 percent on welfare. With the way the Israelis are administering the occupied territories, all they are doing is building more and more sheer, spontaneous, homegrown Palestinian hatred towards them.

"Gaza is the worst of the occupied territories because of the high level of education attained by Palestinian children, but they cannot get any work other than low-paying manual labor inside Israel. Israel uses Gaza as a labor pool and has effectively stopped economic development in Gaza.

"We have had absolute frustration on the part of the young. They see no point in studying when all they are going to do is end up as laborers in Israel. The young are angry at their parents, who are resigned after so many lost wars and have sullenly accepted the status quo. They [Palestinian youths] pay little attention to the traditional Palestinian leaders such as the PLO, which they feel has never adequately fought for their rights.

They have instead formed their own groups of 16- and 17-year-olds who roam the streets and lead even younger kids in confrontation with the soldiers. If children throw stones, the soldiers open fire, even on kids as young as 8 and 9 years old. The soldiers have no riot training or gear, but they open fire with standard infantry weapons. The children are arrested and put into prison, and new ones spring up. These kids don't give a damn, and they don't give a damn about dying."

UNBRO, the agency providing physical assistance to 300,000 Cambodian refugees along the Thai-Cambodian border is another political creation. Its mandate does not include protecting the refugees; that is the responsibility of Thailand, which supplies the camps with armed guards. Earlier this year the special Thai camp guard unit, called Task Force 80 Rangers, was disbanded after severe international criticism of its eight-year record of criminal conduct against the refugees.

Protection in the international sense is supposed to be provided in the Thai camps by the International Committee of the Red Cross (ICRC) through its protection officers. Thailand, however, forbids international personnel to remain in the camps after 5 p.m. each day, and it is at night that predators of various stripes—Thai guards, bandit gangs and gangs of refugees themselves—feed on the misfortune of the inmates. Even during the day the ICRC protection officers, who are in reality unarmed humanitarian workers, are not equipped to stop trouble when it starts.

In July 1987, for example, ICRC representatives stood impotently as a drunken Task Force 80 guard murdered two refugees at mid-afternoon in Site 2, the largest of the border camps with 170,000 inmates. Site 2, like all the border camps, is a "closed" facility, ringed with barbed wire and guard towers. The refugees are, by Thai regulation, not allowed outside.

In practice, however, refugees often make short trips outside the camp. Depending on their moods, guards sometimes let refugees go through the fence to gather firewood or collect water, both of which are in short supply. Refugee traders also bribe their way in and out of the camp in the course of business.

At 1:45 p.m., July 31, 1987, two ICRC delegates inside Site 2 were summoned to its northern perimeter fence by a group of agitated refugees. A few yards outside the fence, a Task Force 80 guard had stopped a 30-year-old pregnant woman, who had left the camp in search of wood in a nearby forest. As the ICRC delegates and the refugees inside the fence watched in horror, the guard began beating the woman and then turned on her 32-year-old husband, an amputee on crutches.

"You must understand the brutality of some of the guards," a high-ranking European refugee official said in Bangkok, asking for anonymity for diplomatic reasons. "If they are as drunk as this one was, they are vicious, and if you try to intervene yourself, they will turn their guns on you and kill you with no thought about it. The witnesses to this incident [the ICRC delegates] did the only prudent thing they could do. They frantically tried to raise the guard commander on their walkie-talkies. Unfortunately, it happened to be the first day on the job for a new commander, he was in an introductory briefing meeting, and one of his aides had turned off his radio.

"Unable to find the Ranger commander, the people inside the fence stood wordlessly while the guard pointed his gun at the couple and forced them into the forest. Moments later some shots were fired. Two hours later the camp police were allowed to go into the forest to investigate, and within several minutes they brought two bodies out. The dead parents left three orphans. The guard simply disappeared, never to be seen again in the camp."

Leaving the Cambodians exposed to physical abuse and international neglect for so many years has stripped many inmates of all vestiges of civility, the official said. "The normal behavior of people should not automatically result in violence, but this population is under such stress that . . . just a negative word can set off an eruption of violence between spouses or neighbors."

Humanitarian agencies periodically and vainly have tried to convince the Thai government to move the camps deeper inside Thailand to protect refugees from military attacks. All eight are within a mile of the Cambodian border, within easy reach of Vietnamese artillery.

I found Pra Cheau, a 53-year former rice farmer, digging furiously in front of his thatch hut in Site 8, a camp controlled by the Khmer Rouge, one scorchingly hot Saturday morning last March. The hole he was digging had the dimensions of an oversized grave.

He had survived the U.S. Air Force carpet bombings of Cambodia in the early 1970s. He had lived through the butchery and famine of Pol Pot's murderous regime that killed more than 1 million Cambodians between 1975 and 1978. He had been chased by Vietnamese shot and shell for six years along the border. And still, after all those years of living on the precipice, he was on this day digging yet another bunker for the protection of himself, his wife and his 10 children.

"Now that it's the dry season," Pra said matter-of-factly, "it's time for the Vietnamese offensive to begin again. They have been shelling nearby every day. I'm afraid of the shelling, and my old bunker has caved in, so now I'm repairing it." True to his word, while I spoke with him, a battery of Vietnamese artillery opened up from somewhere across the border.

Pra and his family live in a typical thatch hut built on stilts. If faces a wide camp service road, giving him enough room for a small vegetable garden and his bunker.

The Khmer Rouge have opened Site 8 to the outside world, allowing UN officials and humanitarian workers to visit and work in the camp daily. They have even allowed some conventions of the outside world inside Site 8. Occasionally a radio can be heard playing in some refugee huts, an activity punishable by death when Pol Pot ran Cambodia.

Schools have opened, and Khmer Rouge children are attending classes for the first time since 1975, when Pol Pot banned formal education inside Cambodia, Small-scale commerce using money, also outlawed by Pol Pot, is alive in a small but active black market along the camp fences.

But Site 8 is the only Khmer Rouge camp outsiders can enter. UN officials and humanitarian workers are stopped at the gates of the other four by armed guards. Any supplies and materials, including medicines, are left at the gate. Any information, either offered or sought, is passed along at the gate. Nobody goes inside, and no outsider knows how UN supplies are distributed or what living conditions are inside.

Site 8 is believed to be mostly populated by expendable people for whom the Khmer Rouge have little use—the sick, the lame and the old. Few fighters are recruited from the place, though young men and women are sometimes pressed into service as porters carrying supplies into Cambodia.

Even though the Khmer Rouge present it as a model camp, it is a hellhole. Fear permeates most conversations, the sort of fear

that keeps someone from saying something because he could be turned in by ever-present eavesdroppers.

As we talked, many of Pra Cheau's neighbors and curious passersby on the road stopped to listen. He seemed nervous as he watched the growing collection of people, frequently looking to see who was listening.

As residents of Site 8, Pra's family are considered Khmer Rouge loyalists. If the Khmer Rouge want him or his sons to go back to Cambodia to fight, he really won't have much choice in the matter. The Khmer Rouge routinely moves groups of camp residents out of Site 8 to its other closed border camps. What happens to them there is a mystery.

According to the camp workers, at least 50 percent, probably as much as 80 percent, of the residents in Site 8 have no allegiance whatsoever to the Khmer Rouge. They are, in effect, prisoners of the Khmer Rouge.

Every relief worker I spoke with who has worked with the Khmer Rouge is adamant that the Khmer Rouge have not substantially changed since they murdered more than a million of their countrymen. The camp workers believe that if the Vietnamese make good their promise to withdraw from Cambodia by 1990, the Khmer Rouge will seize power once again and the the bloodbath will start all over.

"It seems the Khmer Rouge are just as cruel and bloody as they ever were," said one of the few relief workers who has visited other Khmer Rouge camps. "My skin would crawl when I went into those camps. People were so quiet so robotlike. It's really a reign of terror. I'm convinced there has to be an international presence in all the border camps.

"The lack of active concern on the part of the U.S. and others to demand that nobody be forced to live with the Khmer Rouge is one of the most appalling chapters of this century's history. Informal surveys show that three-fourths of the Khmer Rouge civilians would go to another camp and another faction if given the chance. But the international community just doesn't have the will to liberate the civilian population from the Khmer Rouge. So we're condemning hundreds of thousands of people to an unspeakable fate, year after year."

No refugees in Site 8 would openly say they wished to leave, of course, for fear of reprisals. I asked Pra why he remained under Khmer Rouge control, probably a silly question to ask in front of so many people. Pra looked stunned, and real fear seemed to creep into his eyes as he remained silent for some moments.

Finally Pra blurted that he and his family fell under Khmer Rouge domination in early 1979 while hiding in the forests after the Vietnamese invasion. He said no more about it. At that, he said he is relatively happy in Site 8, especially since his children can attend school. He is quite proud of the fact that his 22-year-old son is now enrolled in primary school and learning to read and write, something he never did.

"I'm happy with this situation," he said "We get enough rice now, and we're freer than before. All my children are studying. I refused to allow the administration to let my son be taken into the army. If the enemy [Vietnam] is still in Cambodia, we would prefer to remain here in the camp.

"We have no choice, anyway. If we go back to Cambodia, we will get shot. If we try to go out of the camp here, the Thais will shoot us. So we just dig here, and we live here."

As dangerous as life can be in refugee camps, by far the most vulnerable populations in the world today are those beyond the reach of international humanitarian aid and protection. These are the "internally displaced," people displaced in their own counntries by war.

If they are lucky, the displaced fall under the control of benign forces, a socially conscientious government or a rebel group. If they are unlucky, they fall under control of malevolent forces who enslave, starve or murder them as Pol Pot did in Cambodia.

Unfortunately, in the two decades there have been dozens of Cambodias in which to one degree or another the human rights of millions of internally displaced people have been ignored. El Salvador has a million internally displaced people. At least 2 million are displaced inside Afghanistan. Another 5 million to 6 million are homeless or held in servitude inside Mozambique.

Nobody knows the number of displaced inside Ethiopia because the government won't let anybody count them. The most informed guess is at least 2 million.

If there are 13 million recognized refugees living across borders in foreign countries today, there are, by the most conservative estimates, at least twice that number living displaced in their own countries.

"In Mozambique alone," said Jean Pierre Hocke, the UN High Commissioner for Refugees, "it is a 10-to-1 ratio of internally displaced people to registered refugees outside Mozambique. To multiply the number of world-wide refugees by two or three to arrive at the number of internally displaced is probably on the conservative side."

The internally displaced are a grave concern to humanitarian agencies because they often live under far worse conditions than refugees in camps. If governments or rebel groups choose to murder or starve their own people within their own borders, they can do it. Even if the rest of the world is aware that massive crimes are being committed in a given nation, present international law works against intervention.

"What can be done about this?" asked the Independent Commission on International Humanitarian Issues in its 1986 report on refugees. "The international community is founded on the principle of state sovereignty, and governments can almost act as they please within their own borders. Their excesses may, regrettably, be condoned and even somewhat encouraged by their more powerful allies."

One example is El Salvador. "In order to receive official assistance," the commission's report said, "displaced Salvadorans must register with authorities and provide details of their personal background. Many refuse to do this, fearing that those details will be used by the military and death squads to identify and eliminate relative or fellow villagers. In response, the government considers that the . . . unregistered people are by definition 'subversive.' In some areas they have been bombed, strafed and mortared, sometimes while waiting to collect food supplies from nongovernment relief organizations. Safe havens run by the church and voluntary organizations are kept under surveillance. Any displaced person leaving the refuge runs the risk of arrest, torture and even death."

Calle Real is a camp of low-slung, dormitory-style buildings built by the Salvadoran Catholic Church nearly four years ago on a steep hillside half an hour's drive from San Salvador, the nation's capital. The camp, like many others near the city, was constructed to house the overflow of campesinos from San Salvador where the rural peasants, their homes and villages destroyed in the ongoing civil war, had flocked.

The camp is surrounded by a high fence, and its one gate is under constant guard. The 325 people living there last May seldom left the compound, though they are allowed to do so if they ask for permission. Outside the camp gate, they risk being stopped and detained by military patrols, whether they have written passes or not.

"Because we came from conflicted areas in the war zones," said a camp leader, "we are accused of being guerrillas or helping the guerrillas. If your home district is listed on a pass and a soldier stops you outside the camp, they become suspicious of you as soon as they look at it.

"Last November [1987] some women went outside the camp to do some shopping in San Salvador and were stopped by soldiers on the highway. They were kept blindfolded for 24 hours and taken to a cemetery, where they were held and questioned. If you want, you can go outside the camp and look for work, but five days later you might be arrested and detained because the military is suspicious of the village you came from. People fear going outside the camp, so most remain here all the time."

The Calle Real inmates make most of their own clothing and shoes and at least partially feed themselves with their own garden plots. The rest of their food is supplied by the Salvadoran Catholic Church and by international voluntary agencies. They are looked after by volunteer doctors and nurses, most of them American with strong church affiliations.

The mood in Calle Real is one of quiet defiance. If most of the inmates aren't rebels, their sympathies probably lie with the rebels. Every adult in the camp lost his or her home in government "sweeps" of the Salvadoran countryside. Nearly every adult has had at least one close relative killed in the civil war, usually by indiscriminate government aerial bombing or artillery fire in their native villages.

The utter savagery of civil war in a place like El Salvador stymies even the best relief organizations. The atmosphere is so politically charged that the mere act of providing the most basic aid to the internally displaced is interpreted as helping one side or the other. The Independent Commission's 1986 refugee report noted the cynical exploitation of Red Cross assistance by the Salvadoran government:

"In order to retain a good working relationship with the government, the ICRC has provided the authorities with details of its food deliveries to displaced people. In 1983 and 1984 this information was used by the military to organize attacks on the displaced people as they assembled to collect their rations. As a result, many were deterred from seeking further assistance, and the ICRC was forced to make a substantial cut in its feeding program. Not surprisingly, the ICRC has refused to take on the task of coordinating assistance to the displaced in El Salvador, believing that this would inevitably lead to conflict with the government or charges of collaboration from the guerrillas."

For internally displaced refugees, the most dreaded situations occur when governments or rebel groups completely draw curtains around their borders, keeping journalists and humanitarian workers away. The total denial of outside access to a country or a rebel-held territory is usually telling. It

often means that the people in charge are busy committing atrocities on their own people.

It took years for the rest of the world to learn of and accept as fact the mayhem Pol Pot inflicted on his people in Cambodia. Hundreds of thousands of people in rebel-controlled areas of Mozambique today are being held in a state of slavery by threat of death. A similar orgy of violence wiped out more than half a million people in Uganda in the early 1980s. But the curtains were so tightly drawn by Uganda's dictator of that period, Milton Obote, that few people outside Uganda even today are aware that anything happened. In Uganda, however, the horror of Obote's reign is evoked simply with the mention of one place: the Luwero Triangle.

Between 1982 and 1985, Milton Obote's army very nearly succeeded in depopulating the Luwero Triangle of its 1.6 million people. Any males between the ages of 14 and 50 were automatically considered opposition. If they were caught with their families, all were summarily shot. Women, children and the elderly caught in the army sweeps were herded into government enclaves run like slave camps, with no medical attention and very little food provided. When starvation began to set in, the ICRC tried to run food convoys out to the camps, but Obote stopped them, claiming the food was intended for opposition guerrillas. Within three years, 300,000 persons in the Luwero Triangle were dead either by gunshot or by enforced starvation. Another million were held in government camps, had fled to neighboring provinces or had joined the guerrilla army fighting Obote's regime.

In early November, 1987, I spent a day touring the southern districts of Luwero Triangle, just an hour north of Kampala. My driver-interpreter, Joseph, is in his early 40s. He is, I soon learned, a national celebrity who once had been the first-string goalie for the All-Africa soccer team. In the wreckage of Uganda's economy, he now makes a living with his battered old car guiding journalists and foreign delegations in and around Kampala.

The Luwero Triangle is one of the lushest areas of Uganda, a country so blessed with rain and land so rich you half-expect a broomstick left out overnight to sprout branches. Under good leadership Uganda could have been the most prosperous nation in black Africa.

As we drove along the fractured pavement of roads that obviously hadn't seen repairs since the British left, Joseph talked about the everyday terror everybody felt during the Obote regime. He had lived through it in Kampala.

"For a long time everybody went to bed wearing all their clothes, even their shoes," he said. "You wanted to be prepared in case the soldiers came to your home. You had to be ready to move fast. You wouldn't dare play a radio or a tape in your house. If soldiers came by and heard music in a house, they'd figure, 'Aha! Somebody has tapes in there,' and they'd force their way in to rob you. You didn't even want to keep a light on. Many people just didn't bother to stay in their houses at night, sleeping instead outside in their gardens or yards."

We had left Kampala early in the morning, and in my haste I had forgotten a notebook with directions to some places in Luwero that a diplomat had recommended I try to see. Joseph couldn't recognize anything from my fuzzy recollections, so he turned into a small village churchyard to consult the local priest.

I noticed as we walked toward the rectory that the church was overflowing with 300 or 400 women dressed in their finest. It being a Thursday morning, I was curious about the gathering.

"Ah, said the genial priest of Kiziba Parish, Father John Baptist Kkonde, "you have chosen a very good day to visit us. Today is the first Thursday of the month, the day we have the meeting of the Widows Club."

Father Kkonde wanted me to stay and watch the meeting. I was worried about a gathering storm. The roads would soon be impassable and my day would be wasted if I did not see and photograph some of the evidence of Obote's brutality.

We left the priest standing in the churchyard, and two minutes later Joseph stopped the car. He walked across a gully, motioning me to follow him through a 6-foot-tall barrier of grass and reeds. On the other side, neatly stacked on a platform, were perhaps 500 skulls and the bones that once belonged to them.

Many of the skulls had bullet holes through the forehead, others were horribly crushed. There was no way of identifying the remains, so the bones were just stacked up as a memorial. They were, Joseph said, Father Kkonde's former parishioners, all that was left of the husbands, brothers, sons and daughters of the Widows Club I had just left.

We hurried back to the church. The widows were of all ages, but most seemed to be in their 50s, 60s and 70s. Father Kkonde said many of the village families were wiped out except for older women and very young orphans. Returning survivors were causing great problems.

Families with surviving males were doing all right, but the widows, especially the older ones left to care for orphaned grandchildren, could not cope with the heavy farm work needed to support their households.

"After Obote was defeated, I found my nephew's children, a 5-year old girl and a 6-year old boy," said Federesi Walana, 70. "My nephew and his wife had been killed, so I have taken them in. We eat what little we can cultivate, and I make a little working as a casual laborer, but it is not a very good life."

Erunesi Ddumba, a 50-year-old primary-school teacher, lost her husband, a daughter and two sons. "When the troops came," she said, "they looted the houses and forced the men to carry to the trucks tin roofs, foodstuffs and whatever they found valuable, which they sent to Kampala to sell in the markets. They killed most of the men who were captured. Some were shot, some were beaten to death.

"The rest of us they forced to go with them to camps they had set up. There was no food, no shelter, no medicines. There the soldiers forced us to become their wives. This life continued until July, 1985, when Obote was defeated. Now I am caring for the orphans of three of my children, two boys and four girls. We have no house, so I'm living in a small room I rent. We're able to grow some food, but it's a struggle. So much of it gets eaten at night by monkeys and pigs that grew wild during the war."

Widow Rose Luboyera, 60, lost most of her relatives during the war and now helps one surviving daughter, also a widow, take care of six children.

"They just destroyed everything," she said. "All of my relatives' houses are gone. All of my brothers and sisters have been killed. When the soldiers came, we prayed for our lives, begging them to take our property but to spare our lives. They mocked us with a song they made up, 'Take anything, but spare our lives.' "

The church was trying to help, Father Kkonde said, but because little outside aid had yet arrived in the Triangle, some of the widows were having extreme difficulties.

"That is why we organized this club," he said. "They just come together to talk about their problems and help each other with their grief."

As the meeting ended, the women lingered in the churchyard. Village children came racing over as word spread that Joseph, the soccer hero, was in town. The ladies of the club wanted me to photograph the gathering to commemorate the occasion. As they organized themselves, one of them began singing. Soon all had joined in, swaying rhythmically to the tune, serenading me as I tried to focus my camera through my tears. Joseph, as moved as I, hurriedly groped through the trunk of his car and tossed to the awestruck children two brand-new $45 soccer balls he could ill afford to give away.

Joseph had seen the evidence of the Luwero Triangle carnage many times. Still, as we resumed our journey, he seemed as stunned and repulsed as I was.

Two years after the carnage ended, the Luwero Triangle had become its own monument to inhumanity. Wherever there were more than half a dozen houses clustered together, there was the same macabre display along the road—a little platform piled with bleached skulls and bones. Each village and settlement we passed through was more than half-empty, a collection of roofless houses with gaping doorways and smashed windows.

"The empty houses will never be used again," Joseph said. "Their people are all gone, dead."

That is the legacy Milton Obote left Uganda, a benighted, fractured forlorn land.

Obote and his predecessor Amin were leaders of a sovereign state, and, as such, were courted by other nations wishing to gain favor and an "edge" that would serve specific geo-political interests. In the name of Uganda, these nations were given grants, loans and gifts of modern weapons—and advice on how to use them. To serve their own personal interests, Obote and Amin used the weapons to destroy nearly all that is productive in Uganda.

In all the years that Amin and Obote ruled, from 1971 to 1985, no roads were constructed, no schools were built, no hospitals opened, while millions of acres of once-productive farmland fell fallow. Even the game parks, once the finest in Africa, were emptied of game, suffering a ghoulish parallel to the fate of so many Ugandans. Thousands of elephants, hippo, rhinos and other wild game were machine-gunned to death by marauding soldiers for sheer sport. Surviving herds, sensing the danger, migrated to neighboring countries. Strangely, the animals, too, are now returning gradually to the spectacular parks.

In his 1982 book, "Ideology and Development in Africa," Crawford Young, a University of Wisconsin political scientist, referred to Uganda as a phenomenon of our time. "Regimes might not only fail to achieve development," he wrote, "but might transform the state itself into a predator upon society."

Certainly one can fit Amin and Obote's names into that description, and Pol Pot's,

too. All three currently live comfortably in exile. There are others straining to get on the list, sovereign rulers and guerrilla leaders of "liberation" armies, predators feeding upon their own societies. That most sacrosanct international law, national sovereignty, lets the predators go about their work.

But the rest of the world, particularly the key industrial and military powers, often has had a hand in creating the Amins, Obotes and Pol Pots of our sanguinary age. It is a time of remarkable advancements in conventional weapons, enabling even illiterate bush soldiers to kill unprecedented numbers of people. It is a time when a trillion-dollar-a-year arms business supplies proxy was in the world's most impoverished, least-developed societies.

Milton Obote, Idi Amin and Pol Pot are perhaps not aberrations but the logical extension of an age that has seen 13 million people thrown into the miserable oblivion of refugee camps to rot in their own despair and grief for years and decades at a time.

Since World War II, persistent conflicts have spread refugees like malignancies in the body politic of all the world. The hatred, sorrow and misery engendered in these refugees only deepens the probability of more war, more instability, more global insecurity.

"We consider around here environmental impact statements," Sen. Edward Kennedy said during a 1987 congressional debate on U.S. funding of the rebel side in Angola's civil war. "Shouldn't we consider refugee impact statements as a result of our foreign-policy decisions? I think it would be good guidance to all administrators to consider the impact of our policies, particularly military aid, on the creation of refugees."●

THE SPECTER OF QUOTAS—DISCRIMINATION AGAINST ASIAN-AMERICAN STUDENTS IN HIGHER EDUCATION ADMISSIONS?

● Mr. SIMON. Mr. President, the Washington Post editorialized on December 17, 1988 on a subject that is of increasing concern to me—the question of discrimination against Asian-American students in making admissions decisions by institutions of higher education. "The Specter of Quotas" properly outlines the issues present in the current debate about the refusal of some of the Nation's most prestigious colleges and universities to admit apparently qualified Chinese and Japanese, as well as other Asian-American students.

My colleague, Tom Daschle and I held a seminar during the congressional adjournment on this important issue and others affecting the Asian community. We were pleased to have the participation of then Assistant Attorney General for Civil Rights William Bradford Reynolds, Dean Eric Widmer of Brown University, Assistant Vice President Alice Cox of the University of California, Grace Tsuang of the Yale University Law School and Henry Der of Chinese for Affirmative Action. The discussion was both scholarly and productive.

The Department of Education's current compliance review of several of the alleged offending institutions is critical. We must have the facts and the inquiry by the Department's Office for Civil Rights is the appropriate way to get those facts. I look forward to hearing the results of their inquiry.

Mr. President, I ask that the December 17, 1988 editorial for the Post, as well an editorial from the Boston Globe "Affirmative Action Crumbs" be printed in the RECORD at this point and I urge my colleagues to read both carefully.

The material follows:

[From the Boston Globe, Dec. 4, 1988]

AFFIRMATIVE ACTION CRUMBS

If for no other reason—and there probably is not another—Assistant Attorney General William Bradford Reynolds will be missed for his predictability. Reynolds, the head of the Justice Department's Civil Rights Division, is devoutly opposed to any affirmative action or preference program and will go to almost any length to justify his position.

This time Reynolds has decided to befriend Asian-Americans—an admirable position if Reynolds were not just using it as an excuse to attack programs to benefit blacks and Latinos. But that appears to be the case.

It is not that Reynolds or the Reagan administration cares so deeply about alleged discrimination against Asians by universities. It is that after eight years the administration's failure to declare the nation racially colorblind and derail affirmative action still galls.

Reynolds, who is resigning Friday, had what must have seemed a good forum for his last attack on affirmative action. He participated in a symposium on Asian-American university admissions sponsored by Sen. Tom Daschle (D-S.D.).

Reynolds said there is evidence that universities discriminate against Asians by giving racial preference to blacks and Latinos. Giving such preference, he said, is "the most likely explanation of the alleged discrimination against Asian-Americans."

The problem is not Reynolds' contention that some schools set quotas on admissions for Asian-Americans. It likely occurs, and such quotas are insupportable.

What is so cynical is the blatant attempt to set minorities against each other to fight over the leftover crumbs. As Grace Tsuang, a Yale Law School student, said, Asians are not against affirmative action programs for minorities. They want to be treated as fairly as whites in the college-application process—and that is not always the case.

Reynolds' departure will not be greeted with sadness in the civil rights community. It will be seen as an opportunity for President-elect Bush to show that his kinder, gentler America will include tougher enforcement of civil rights laws.

[From the Washington Post, Dec. 17, 1988]

THE SPECTER OF QUOTAS

With the approach of Jan. 1 comes high season again for applications and admissions to the most selective colleges—a process that always generates substantial amounts of anguish as a byproduct. This year one variety of that anguish is undergoing scrutiny by the Education Department. Faced with rising numbers of complaints from Asian students and parents that various colleges are trying to limit the numbers of Asians they accept—in effect, applying an unwritten quota—the department is reviewing the admissions processes of Harvard and the University of California at Los Angeles to see whether they comply with existing civil rights law. The process is likely to be long and complex.

The ethical question here is easy; obviously it is wrong, as well as illegal, to establish an admissions ceiling for a given group of students of a particular ethnic background. The idea that there is anything intrinsically "wrong" with a student body's being heavily Asian, if those students represent the best and ablest ones available, is similarly pernicious—not to mention bad for the institutions involved. What's complicated, given the traditionally secretive nature of college admissions decisions and the different kinds of factors that play into them—the student's needs, the university's, the society's—is figuring out whether that is going on. Some patterns are offered as evidence: at Harvard, for instance, average grades and scores of Asian students admitted are somewhat higher than the corresponding averages for whites, suggesting Asians face more rigorous criteria. In California, where many of the complaints originate, the situation is somewhat different: the University of California system is committed to accommodating a specified top percentage of all high school graduates in the state but, given overcrowding, doesn't promise they can go to the campus or enter the department of their choice. Asian groups say some desirable campuses—for instance, Berkeley and UCLA, both near large Asian communities—have shown suspicious drops in Asian acceptance rates in recent years.

In general, the defense offered by universities is that other factors besides ethnicity are at play, factors that may yield disproportionate results but are themselves not ethnically suspect. Harvard says certain types of avowedly preferential treatment, mainly that afforded to children of alumni and to athletes, just haven't been available to many Asians so far; admissions officers there also argue that this is the kind of preference universities are entitled to exercise, and that when corrected for these factors the gaps in achievement disappear. Some schools put heavy emphasis on extracurricular activities, and recently immigrated Asian families have tended not to encourage their children in that direction. The groups charging discrimination argue in essence that the new attention to such factors is not coincidental, that it reflects colleges' nervousness about rising numbers of successful Asian applicants. But it's been generally thought reasonable till now that colleges be permitted to seek "diversity" of interests and strengths among applicants.

The government's inquiry is a chance to examine all those perceptions afresh. Whether or not changes result (and any government litigation or compulsion would come only after many more procedural steps and chances for the universities to change themselves), such a reexamination every so often is useful; given the ugly nature of the suspicions and allegations that have been raised, it is also essential.●

RULES OF THE COMMITTEE ON LABOR AND HUMAN RESOURCES

● Mr. KENNEDY. Mr. President, I submit the rules of the Committee on

Labor and Human Resources. I ask that they be printed in the RECORD.

The rules follow:

SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

Edward M. Kennedy, Chairman

RULES OF PROCEDURE

Rule 1.—Subject to the provisions of Rule XXVI, paragraph 5, of the Standing Rules of the Senate, regular meetings of the Committee shall be held on the second and fourth Wednesday of each month, at 10:00 a.m., in room SD 430, Dirksen Senate Office Building. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2.—The Chairman of the Committee or of a subcommittee, or if the Chairman is not present, the ranking Majority member present, shall preside at all meetings.

Rule 3.—Meetings of the Committee or a subcommittee, including meetings to conduct hearings, shall be open to the public except as otherwise specifically provided in subsections (b) and (d) of Rule 26.5 of the Standing Rules of the Senate.

Rule 4.—(a) Subject to paragraph (b), one-third of the membership of the Committee, actually present, shall constitute a quorum for the purpose of transacting business. Any quorum of the Committee which is composed of less than a majority of the members of the Committee shall include at least one member of the Majority and one member of the Minority.

(b) A majority of the members of a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business: provided, no measure or matter shall be ordered reported unless such majority shall include at least one member of the Minority who is a member of the subcommittee. If, at any subcommittee meeting, a measure or matter cannot be ordered reported because of the absence of such a Minority member, the measure or matter shall lay over for a day. If the presence of a member of the Minority is not then obtained, a majority of the members of the subcommittee, actually present, may order such measure or matter reported.

(c) No measure or matter shall be ordered reported from the Committee or a subcommittee unless a majority of the Committee or subcommittee is actually present at the time such action is taken.

Rule 5.—With the approval of the Chairman of the Committee or subcommittee, one member thereof may conduct public hearings other than taking sworn testimony.

Rule 6.—Proxy voting shall be allowed on all measures and matters before the Committee or a subcommittee if the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the Committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

The Committee may poll any matters of Committee business as a matter of unanimous consent; provided that every member is polled and every poll consists of the following two questions:

(1) Do you agree or disagree to poll the proposal; and

(2) Do you favor or oppose the proposal.

Rule 7.—There shall be prepared and kept a complete transcript or electronic recording adequate to fully record the proceedings of each Committee or subcommittee meeting or conference whether or not such meetings or any part thereof is closed pursuant to the specific provisions of subsections (b) and (d) of Rule 26.5 of the Standing Rules of the Senate, unless a majority of said members vote to forego such a record. Such records shall contain the vote cast by each member of the Committee or subcommittee on any question on which a "yea and nay" vote is demanded, and shall be available for inspection by any Committee member. The Clerk of the Committee, or the Clerk's designee, shall have the responsibility to make appropriate arrangements to implement this Rule.

Rule 8.—The Committee and each subcommittee shall undertake, consistent with the provisions of Rule XXVI, paragraph 4, of the Standing Rules of the Senate, to issue public announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9.—The Committee or a subcommittee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the Chairman and the ranking Minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee or a subcommittee. The Committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10.—Should a subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such subcommittee and report that fact to the full Committee for further disposition.

Rule 11.—No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full Committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12.—It shall be the duty of the Chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to the Senate, any measure or recommendation approved by the Committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13.—Whenever a meeting of the Committee or subcommittee is closed pursuant to the provisions of subsection (b) or (d) of Rule 26.5 of the Standing Rules of the Senate, no person other than members of the Committee, members of the staff of the Committee, and designated assistants to members of the Committee shall be permitted to attend such closed session, except by special dispensation of the Committee or subcommittee or the Chairman thereof.

Rule 14.—The Chairman of the Committee or a subcommittee shall be empowered to adjourn any meeting of the Committee or a subcommittee if a quorum is not present within fifteen minutes of the time schedule for such meeting.

Rule 15.—Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or a subcommittee for final consideration, the Clerk shall place before each member of the Committee or subcommittee a print of the statute or the part or section thereof to be amended or replaced showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added.

Rule 16.—An appropriate opportunity shall be given the Minority to examine the proposed text of Committee reports prior to their filing or publication. In the event there are supplemental, minority, or additional views, an appropriate opportunity shall be given the Majority to examine the proposed text prior to filing or publication.

Rule 17.—(a) The Committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by majority vote of the Committee.

(*b*) For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the Committee or subcommittee shall constitute a quorum: provided, with the concurrence of the Chairman and ranking minority member of the Committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

(*c*) The Committee may, by a majority vote, delegate the authority to issue subpoenas to the Chairman of the Committee or a subcommittee, or to any member designated by such Chairman. Prior to the issuance of each subpoena, the ranking minority member of the Committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the person to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the Chairman of the Committee or subcommittee, in consultation with the ranking minority member, determines that such notice would unduly impede the investigation. All information obtained pursuant to such investigative activity shall be made available as promptly as possible to each member of the Committee requesting same, or to any assistant to a member of the Committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the Rules of the Senate. Such information, to the extent that it is relevant to the investigation shall, if requested by a member, be summarized in writing as soon as practicable. Upon the request of any member, the Chairman of the Committee or subcommittee shall call an executive session to discuss such investigative activity or the issuance of any subpoena in connection therewith.

(*d*) Any witness summoned to testify at a hearing, or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

(*e*) No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the Committee or subcommittee.

Rule 18.—Presidential nominees shall submit a statement of their background and financial interests, including the financial interests of their spouse and children living in their household, on a form approved by the Committee which shall be sworn to as to its completeness and accuracy. The Committee form shall be in two parts—

(I) information relating to employment, education and background of the nominee relating to the position to which the individual is nominated, and which is to be made public; and,

(II) information relating to financial and other background of the nominee, to be made public when the Committee determines that such information bears directly on the nominee's qualifications to hold the position to which the individual is nominated.

Information relating to background and financial interests (Parts I and II) shall not be required of (a) candidates for appointment and promotion in the Public Health Service Corps; and (b) nominees for less than full-time appointments to councils, commissions or boards when the Committee determines that some or all of the information is not relevant to the nature of the position. Information relating to other background and financial interests (Part II) shall not be required of any nominee when the Committee determines that it is not relevant to the nature of the position.

Committee action on a nomination, including hearings or meetings to consider a motion to recommend confirmation, shall not be initiated until at least five days after the nominee submits the form required by this rule unless the Chairman, with the concurrence of the ranking minority member, waives this waiting period.

Rule 19.—Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended or suspended at any time; provided, not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 20.—In addition to the foregoing, the proceedings of the Committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.●

GOV. WILLIAM DONALD SCHAEFER ON THE FEDERAL-STATE PARTNERSHIP

● Mr. SARBANES. Mr. President, I want to share with my colleagues a letter Gov. William Donald Schaefer, of Maryland, recently sent to President George Bush to let him know, "one Governor's view of how States and the Federal Government can work together to truly build that 'kinder and gentler' Nation to help all our people."

In his letter, Governor Schaefer lets the President know that he looks forward to being a partner with him in working on the priorities of the people of Maryland and our Nation, including educating our children, protecting our environment, cleaning up the Chesapeake Bay, improving the infrastructure, and generally building a stronger America and improving our quality of life.

I urge my colleagues to review Governor Schaefer's letter. It is a comprehensive and insightful look at what is needed to reach the goal of a better life for all Americans and how the Federal-State partnership can accomplish that goal. I ask that Governor Schaefer's letter be printed in the CONGRESSIONAL RECORD along with the accompanying executive summary.

The material follows:

STATE OF MARYLAND,
EXECUTIVE DEPARTMENT,
Washington, DC, January 30, 1989.

Hon. GEORGE BUSH,
President of the United States,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I listened carefully to your inaugural speech and your pledge during the campaign for a "kinder and gentler nation." Though we are from different parties and our every step may not be completely in sync, I sense we are marching to the same tune: a better life for the people of America.

People are the backbone of our economy. Investment in people is the best way to make America strong and competitive in the world market.

I would like to be your partner in finding better ways to educate our children, to lift the indigent out of poverty, to stem the rising tide of homelessness, to build up America's infrastructure, to preserve and protect our environment, to rid our society of drugs, to make our streets safer and to provide quality health care for all Americans.

The dynamics of the federal-state relationship have changed over the last decade. The time has come to re-examine that relationship and create a new partnership.

The states have become engines for innovation in recent years. Many of their efforts have provided blueprints for successful national programs. For example, the new federal welfare law is for the most part patterned after state welfare-to-work programs. And innovative environmental projects on the state level have provided the inspiration for national efforts.

I can't think of a better example of how effective a joint federal-state partnership can be than the Chesapeake Bay clean-up program. Three states, the District of Columbia and five federal agencies have worked together to develop innovative programs to restore the Bay. The program has been so successful that it has become a model for the restoration of other estuaries around the country. If you have the opportunity, I hope you will join me on a tour of the Bay. I would like to show you first hand what can be accomplished when all levels of government join forces.

We want to build on these successes. Unfortunately, the success of the Bay clean-up program has been more the exception than the rule. We have been unable to forge an effective federal-state partnership in many other areas. While the states have bolstered their efforts, the federal government has drastically reduced its role in meeting many of the domestic needs of our country. Some cleaning and cutting of the federal budget is necessary to put our fiscal house in order. However, crippling programs that have a proven track record of helping people is counterproductive and shortsighted.

Many of the problems we face are national in scope. The states do not have the tools to solve them alone. They require a national solution. We need your assistance and cooperation. We need your leadership to reinvigorate the federal commitment to domestic programs.

I would like to share with you one Governor's view of how states and the federal government can work together to truly build that "kinder and gentler" nation to help all our people. I am enclosing some of my ideas about how we can achieve that goal. I would be happy to meet with appropriate officials of your administration to discuss these ideas in greater detail.

Sincerely,

WILLIAM DONALD SCHAEFER,
Governor.

[President George Bush, Jan. 30, 1989, Attachment No. 1]

EXECUTIVE SUMMARY

HUMAN RESOURCES

The new Welfare Reform Law guarantees welfare recipients they can receive the job training, education and support services they need to get jobs. The federal government should act quickly to give us guidance on how to implement this new law and provide us with the funds promised.

We must not only devote our efforts to increasing the supply of affordable child care, but we must also take the extra step of ensuring the health and safety of our children.

EDUCATION AND TRAINING

I am glad you agree with me that full federal support of early intervention programs—such as Head Start and Chapter One—is the best way to solve the problems of teenage pregnancy, school dropouts and drug and alcohol abuse.

Your consistent support for student aid to help all Americans receive a college education is to be commended. To achieve our goal of improving access to college for all qualified students, we need full funding of federal grant and loan programs such as the Pell Grant program for financial assistance to low income students.

I applaud your commitment to providing full funding for the Job Training and Partnership Act (JTPA), which has been particularly effective in providing young and disadvantaged workers with the training they need to adapt to the work force.

DRUGS

I applaud your emphasis on education and treatment as a long-term approach to reducing the demand for drugs. We also must take steps to reduce supply. Increased federal interdiction efforts, and a consistent federal financial commitment to assisting state and local drug enforcement efforts are essential if we are to reduce the availability of drugs in our society.

HEALTH

There are approximately 37 million uninsured Americans who face financial ruin if they contract a serious illness or other medical emergency. The federal government and the private sector must coordinate their resources to ensure these Americans have access to adequate insurance protection.

The federal government should work with the insurance industry to expand the availability of private coverage for older Americans. At the same time, it is essential that government pay costs of long-term care for those older Americans who cannot afford care or cannot obtain private insurance.

I am pleased that you believe that the AIDS epidemic requires a national solution. I applaud your proposal to provide some $2 billion for AIDS research, education, and treatment programs.

HOUSING

I urge you to renew the federal government's historic commitment to providing decent, affordable housing for all Americans. I applaud your pledge to fully fund the McKinney Act to assist the homeless. I

urge you to also support federal efforts to assure an adequate supply of affordable rental housing and to increase home ownership opportunities for middle and lower income Americans.

INFRASTRUCTURE

Money has already been set aside in trust funds for our highways, our transit systems, our airports and our waterways. We must ensure that sufficient monies are made available from these trust funds to meet the many unmet needs of our nation's infrastructure.

ENVIRONMENT

The Chesapeake Bay's disturbing trends are indicative of the problems facing many of our nation's coastal waters. We must work to stem the tide of coastal pollution problems by providing full funding for the wastewater construction program and providing the necessary funding to get the national non-point source pollution program off the ground.

Any program to solve our environmental problems must include a strategy to reduce acid rain. I am pleased to see your commitment to finding a solution to this problem and I urge you to press for legislation designed to address this problem in the 101st Congress.

I applaud your commitment to work to preserve our parks and our critical lands. I urge you to work to provide adequate resources to support the Land and Water Conservation Fund.

[President George Bush, Jan. 30, 1989, Attachment No. 2]

HUMAN RESOURCES

WELFARE REFORM

We need to bring more people into the economic process, through education, training and employment, to make America more competitive.

Our rapidly changing economy has produced new opportunities and many new jobs. But this welcome news on the jobs front is tempered by the fact that many Americans lack the required skills or need special assistance such as day care to enter the workforce.

For example, in Maryland we have been working for several years to provide welfare recipients the training and education skills they need to get off the welfare rolls and become self sufficient. Developing the productivity of every available worker has always been an important economic and social concern.

In my years as Mayor, I learned that people want to work. If we give them a chance, they'll gladly take a job to get off welfare. That's why we developed the OPTIONS program in Baltimore City. Through OPTIONS, we successfully provided employment and training opportunities for welfare recipients.

In addition, Project Independence, Maryland's nationally recognized welfare-to-work program, is designed to promote self sufficiency through private sector employment to reduce long-term poverty. I am proud that this model was adopted by the Congress last year when it passed legislation to fundamentally reform America's welfare system. The legislation guarantees welfare recipients they can receive the job training, education and support services they need to get jobs. I know the success we have had in Maryland will be realized throughout the rest of the country.

To help ensure this success, however, the federal government should act quickly to give us guidance on how to implement the new welfare reform law and provide us with the funds promised.

CHILD CARE

A related problem is the lack of affordable, quality day care to permit these individuals to accept employment. This is a problem not only for individuals entering the job market from the welfare rolls but also for the growing number of two wage earner families and single parent households.

The lack of good child care is a national problem. We must form a partnership between the federal government and the states to increase the amount of safe, affordable child care.

Consequently, I applaud your decision to devote so much attention and resources to the child care issue. But I believe your proposal does not go far enough. We must take the extra step to ensure the health and safety of children, and improve access to child care for low and middle income families.

To meet the need for safe, affordable child care in my own state, last year I developed a multifaceted child care initiative.

Our first responsibility is to maintain the health and safety of our children. Millions of working parents across America need the piece of mind that comes from knowing their child will be safe at day care. They are depending on us. That is why a cornerstone of my proposal was to continue Maryland's commitment to tough health and safety standards for day care facilities.

To stimulate growth in the private sector, the proposal combines licensing and regulation of child care, and provides money to businesses trying to set up child care facilities. This removed unnecessary red tape that prevented the expansion of child care, but kept our health and safety standards strong.

Child care is expensive, in my state it costs as much as $5,000 a year. In contrast, the median income for a household in Maryland is about $35,000. Poor and middle class families suffer most because they spend a greater portion of their income on day care.

As a result, I have made money available for subsidized child care, so that low and middle income families in Maryland can find care for their children.

EDUCATION AND TRAINING

The overhaul of our nation's welfare system is a major step in our attemps to reduce poverty and break the cycle of dependence. But we must also attack poverty and its causes on other fronts.

It is our children who are the real victims of poverty. One out of every five of our children is born into proverty. We must reverse this trend and provide opportunities for them.

Education is one of the keys to doing this. But too many poor children have no reliable access to quality education. We must plan for the next generation now. How America nurtures its children today will determine our prosperity tomorrow.

I am pleased to hear that you want to be known as the "Education President."

EARLY CHILDHOOD DEVELOPMENT

I am glad you agree with me that full federal support of early intervention programs—such as the Head Start Program and Chapter One—is the best way to solve the problems of teenage pregnancy, school dropouts, and drug and alcohol abuse. If we invest in people when they're young we will reap economic and social rewards when they're older. Moreover, we must serve the entire eligible population.

STUDENT AID

Your consistent support for student aid to help all Americans receive a college education is to be commended. As you know, not all families have the money to send their kids to college. Our goal must be to improve access to college for all qualified students. To achieve this, we need full funding of federal grant and loan programs such as the Pell Grant program for financial assistance to low income students.

JOB TRAINING

But a college diploma is not the only way to ensure that tomorrow's workers have the skills to enter the labor force. There are many people 16 to 24 years old who are high school dropouts and many more who have graduated from high school but lack the skills they need to get a job. They face bleak economic prospects unless we help them bridge the gap from school to work.

The Job Training and Partnership Act has been particularly effective in providing young and disadvantaged workers with the training they need to adapt to the work force. However, the JTPA, currently reaches only about five percent of the eligible population because not enough funding is made available. I applaud your commitment to providing full funding for this important program. Your strong support for full funding will be a great help in assuring that this program reaches the people it was designed to serve.

DRUGS AND CRIME—DRUG PREVENTION

I hope that moving these people programs along at full speed will have the long-range effect of reducing drug use in our society. But until that happens, we need to continue to vigorously enforce existing drug laws and make available treatment to drug addicts who seek help.

All of us want safe streets. Unfortunately, violence has escalated dramatically in recent years. Much of the crime in our cities and towns is tied to the problem of drugs.

I applaud your campaign pledge to work for the eradication of drugs in our society. However, as Governor I have too often seen the federal government renege on its promise to work in partnership with the states on drug treatment, prevention and enforcement. We will not solve this terrible problem overnight. What we need most is a consistent federal partner who will give us a long-term commitment to this effort.

A one-year program that encourages the states to increase enforcement personnel and treatment centers, but which is then abandoned the following year, leads to counterproductive dislocations in the states' efforts. In 1986, Congress passed a drug bill just before it adjourned for the elections. In 1987, funding under that program was slashed. In 1988, again just prior to an election. Congress passed another law giving the states additional federal help for treatment and enforcement. Now the most recent budget proposes total elimination of all law enforcement assistance to the states. We cannot fight the drug war every other year. I look to you to bring consistency to the federal/state effort to combat drug use and enforce the drug laws.

GUN CONTROL

The increasing violence attributable to drugs also calls for increased control of the weapons of violence. In Maryland we have a seven-day waiting period for the purchase of handguns. In addition, recently passed legis-

lation, approved by the people of Maryland in a referendum last November, bans the sale of "Saturday Night Specials."

I believe that a federal waiting period would be a useful adjunct to these state efforts. Felons and insane individuals are barred from owning weapons by both state and federal law. But without a uniform waiting period to give police the opportunity to check on prospective purchasers, there is no way to assure that these individuals will not seek and purchase handguns from dealers unaware of their background. I urge you to carefully review federal gun laws to assess the usefulness of such a ban.

HEALTH—HELPING THE UNINSURED

Too often America's workers find themselves destitute because they can't afford to pay their hospital bills. All working Americans should have adequate health insurance. There are approximately 37 million uninsured Americans who face financial ruin if they contract a serious illness or other medical emergency.

In Maryland there are about 630,000 citizens with no health insurance, either public or private. Seventy-eight percent of all uninsured adults are employed and 70 percent work full time. Simply expanding the federal/state health program for the very poor will not solve their health care needs. We need to coordinate the abilities and resources of the government and the private sector. These hard-working Americans must have access to adequate insurance protection.

AIDS

I'm sure you agree that AIDS is the most serious public health threat America has faced in many years. Since 1981, more than 80,000 people have been diagnosed by the Centers for Disease Control as having AIDS. More than 46,000 people have already died. I am frustrated because as a Governor, I cannot solve this problem myself. I am pleased that you believe that the epidemic requires the federal government to develop a national solution. Moreover, I applaud your proposal to provide some $2 billion for AIDS research, education, and treatment programs.

LONG-TERM CARE

We also have to guarantee that the elderly have access to adequate health care. The elderly bear most of the costs of long-term care, by far the leading cause of catastrophic health care costs. In fact, the high costs of nursing home care and other long-term health care are so financially devastating that tens of thousands of older Americans are bankrupted each year by catastrophic illness. The federal government should work with the insurance industry to expand the availability of private coverage. At the same time, it is essential that the government pay the costs of long-term care for those older Americans who cannot afford care or cannot obtain private insurance.

HOUSING

Many of the same people who lack the resources to obtain adequate medical care also lack adequate shelter. In Maryland, as in many other states, we are facing a housing crisis, one that has grown more critical in recent years. The day-to-day problems we face include homelessness, lack of affordable rental housing for poor and moderate income citizens, and declining opportunities for home ownership. The decline in federal housing funds is directly related to the increase in homelessness and the other housing problems we face.

THE HOMELESS

Over my years as Mayor, and now as Governor, I have visited homeless shelters and soup kitchens. People there need our help. We can make a difference in their lives.

The McKinney Act to assist the homeless is an important initiative, although it is, of course, not a complete solution. We are making progress in Maryland in providing a full range of services to our homeless population—not just shelter, but counseling, job training and other programs. I applaud your commitment to full funding for this federal effort. It is essential to continued progress.

AFFORDABLE HOUSING AND HOME OWNERSHIP

I realize that as Governor I have a majority responsibility to assist local governments in developing innovative programs to provide adequate shelter for Marylanders. I have created an interagency approach to Maryland's housing problems with particular emphasis on preventing homelessness. We are committed to building 1,500 new housing units every year for the next five years to help prevent new families from becoming homeless and to provide safe shelter for those who have already lost their homes.

I am encouraged by your commitment to increase home ownership. The transfer of public housing units to tenant ownership, and programs to assist first time homebuyers, are the types of innovative programs that can help people.

I urge you to support federal housing programs that provide flexible federal resources in parnership with state and local funds. I urge you to reaffirm the federal government's historic commitment to decent, affordable housing, and to return it to active involvement in providing resources for housing.

INFRASTRUCTURE

When I was Mayor, we had to deepen the channels of the Baltimore harbor from 42 to 50 feet. This was important to enable bigger ships to enter the harbor, allowing us to export more coal and other commodities. Deeper channels help us compete with nations overseas. The State and federal governments each picked up half the tab. Without federal participation, we would not have been able to undertake this project. As Governor of Maryland, I believe the primary responsibility for attending to our infrastructure rests with state and local governments, and I am happy to carry a major share of the burden to help rebuild America. But the federal government should remain a reliable partner in providing resources.

ROADS, TRANSIT, PUBLIC WORKS

Our infrastructure is the bulwark of our economy. Unfortunately, overall spending on public works has declined in recent years. Daily news reports of crumbling bridges, congested highways and aging sewer systems are a constant reminder of how long we have neglected our nation's public works. If we don't attend to the maintenance and upgrading of these facilities now, the costs will become astronomical and future generations will be left to foot the bill. Our ability to compete in the global economy will be severely hampered if we don't act know.

I recognize that budget constraints make it difficult to spend federal money on costly infrastructure programs. But money has already been set aside in trust funds for our highways, our transit systems, our airports and our waterways. The money in these trust funds comes from targeted taxes and user fees that assure that those who use these facilities and services pay for them. We must ensure that sufficient monies are made available from these trust funds to meet the many unmet needs of our nation's infrastructure.

STATE FINANCING

In addition, I am concerned that recent changes in federal tax law have unnecessarily impeded state and local government financing arrangements for infrastructure improvements. The states must have the flexibility to use tax exempt bonds to finance public activities without unnecessarily costly federal regulations and record keeping requirements, or unwarranted Internal Revenue Service restrictions on the scope of our infrastructure investments.

FEDERAL LAND DISPOSAL

I also want to bring to your attention a matter that is of great importance to local governments. That is the disposition of federal land that will take place when military bases are closed pursuant to the new agreement on base closings. While it is appropriate for the federal government to determine which bases are to be closed, it is important that state and local governments be involved in the decisions on how land released by the federal government will be used. Transitional support and consultation by the federal government with state and local governments is essential if we are to minimize any adverse economic impact of such closings.

ECONOMIC DEVELOPMENT AND TRADE—RESEARCH AND DEVELOPMENT

Expanding the federal government's Research and Development effort can pay substantial dividends to the U.S. economy. My state is home to many of the federal governments most significant research centers, including the National Institutes of Health and the Goddard Space Flight Center. I know from personal experience the impact these facilities have on business. However, research is only half of the equation.

We need a renewed emphasis on development and production technology. The National Institute of Standards and Technology can play a major role in assisting American business to develop new products and new production methods and I believe its role should be enhanced.

America's future depends on development of our research today. I encourage you to work for added effort not only in space and health but in other fields that will assure America retains a competitive edge in the highly competitive and innovative world economy.

EXPORT PROMOTION

I have spoken a great deal about our competitive position in the world market. As a Governor, I have traveled abroad to try to expand markets for Maryland goods. I have also had the opportunity to meet with businessmen from around the state who have shared with me their concerns about the difficulties of entering many foreign markets.

In Maryland, as in many other states, we are working to increase our export markets in goods and services. We have developed the concept of a "one stop shop" where businesses can go for a full range of services from the state to assist them in developing international markets. The new trade law passed in the last Congress contains some provisions to help states assist small and medium sized businesses. More is needed.

I believe that we could better coordinate our efforts at the federal and state level to

assist business, particular small business, to open up opportunities overseas. A coordinated approach between federal commercial attaches overseas and state efforts such as Maryland's could greatly enhance exports without increasing resources. My state is ready to work with you to help American industry enter these markets.

ENVIRONMENT

When I was Mayor of Baltimore, I worked to revitalize the City and meet the needs of people. I was concerned mostly about the problems in my backyard—such as the pollution problems of Baltimore harbor.

CHESAPEAKE BAY

Now as Governor, representing all Maryland, I realize that if the City of Baltimore is ever going to solve the harbor's pollution problems the entire state must help. And if the Chesapeake Bay, our nation's largest and most productive estuary, is going to be restored, the federal government must lend a hand. In my efforts to meet this challenge, I have learned how important the Bay is to the economy of the region and to the quality of life of all our citizens.

We have come far enough in our efforts to clean up the Bay to realize just what mammoth work lies ahead. It will take tremendous resolve and ingenuity to reverse the Bay's decline.

If the Bay clean-up program momentum is sustained, it surely will be one of the most spectacular environmental success stories of our time. If it falls by the wayside, it will surely be one of the most heart-breaking and unforgivable failures.

The Bay's problems are complicated. They do not lend themselves to simple solutions. Hard choices will have to be made among competing interests, and literally hundreds of millions of dollars will have to be poured into the clean-up efforts.

The states bordering the Bay are willing to shoulder most of the burden. But we do not have all the tools to handle the job alone. Environmental problems such as these cut across state borders. They require a national solution.

COASTAL WATERS

The Bay's disturbing trends are indicative of the problems facing many of our nation's coastal waters. We must work to stem the tide of coastal pollution problems before we reach the point of no return.

At the very least, the federal government should meet its obligation to fully fund the wastewater construction program and it should provide the necessary funding to get the national non-point source pollution program off the ground.

But much more needs to be done if we are going to meet our goal of obtaining fishable and swimmable waters. We must explore new ways to reduce pollution. Funding for programs designed to remove nutrients, to eliminate toxics, and to combat diseases that are hurting important wildlife populations should be a top priority.

CLEAN AIR

Any program to solve our environmental problems must include a strategy to reduce acid rain. Acid rain poses a threat to our forests, our wildlife and our fish. It is also responsible for one-fifth of the nutrient pollution entering the Chesapeake Bay. I am pleased to see your commitment to finding a solution to this problem and I urge you to press for legislation designed to address this problem in the 101st Congress.

Maryland and 40 other states have areas that do not meet federal clean air standards. Legislation was introduced in the last Congress to extend the deadline for compliance with the Clean Air Act. In exchange for the extension, states and businesses will face stiffer control measures. I urge you to support legislation that extends the ozone attainment deadline.

LAND PRESERVATION

I applaud your commitment to an outdoor ethic and your pledge to work to preserve our parks and our critical lands. In Maryland, we are setting aside 10 percent of the land along the Bay for public access and to preserve our heritage. Money will come from a variety of sources, but the Land and Water Conservation Fund is an important ingredient in this effort. I urge you to work to provide adequate resources to support the Land and Water Conservation Act.

I am encouraged by your pledge to make environment a top priority. I look forward to working with you to preserve and protect our abundant natural resources, not only for our children but for our children's children.

AGRICULTURE

As we work to improve our natural resources, we should not forget one of our most valuable resources—agriculture. Agriculture is Maryland's number one business. The success of our farmers is key to the progress of my state. We look forward to working with you and our Congressional representatives in crafting a farm bill that will help all of our nation's farmers. However, there is one recruiting problem that needs particular close attention now.

In Maryland, as in many other parts of the country, we have been experiencing severe droughts. The damage caused by last year's drought is a daunting reminder of how devastating and costly such a natural disaster can be for American farmers and for the nation as a whole. The crop insurance program is one important program designed to help farmers recoup the losses incurred in situations like this. However, it does not contain the necessary incentives to encourage farmers to participate. Participation among farmers in Maryland and in many other states is very low. I would like to work with you to change this program so that all farmers may benefit in time of need.●

CAMPAIGN CONTRIBUTIONS

● Mr. SHELBY. Mr. President, on January 31, I introduced S. 326, a bill to prohibit the conversion of excess campaign contributions to personal use. Although the Senate has instituted a standing rule to prohibit the personal use by any Member or former Member, the rule does not carry the full force of the law. The statute governing this issue allows Members who were in office before January 8, 1980, to take the campaign contributions and use at will. S. 326 removes this grandfather clause and prohibits any personal use of campaign contributions by any candidate.

I would like to submit for the RECORD two editorials which have appeared in Alabama newspapers evidencing public support for this measure. I hope my colleagues will join me in this attempt to close one of the loopholes in our campaign finance law.

I ask that the editorials be printed in the RECORD.

The editorials follow:

[From the Montgomery Advertiser, Feb. 6, 1989]

ROCKING CHAIR FUNDS

One of the beneficial results of the flap over whether Congress will get a 50 percent pay raise is proposed legislation to close an eight-year-old campaign finance loophole.

Part of the price of passing a 1980 campaign bill was a provision which allows members of Congress who were in office before 1980 to convert their campaign warchests to their personal use after they leave office, a sort of "rocking chair fund" to help the lawmakers in retirement.

In short, if a senator or House member elected prior to 1980 wants to retire, there is nothing in the law to keep him or her from walking away from Washington with whatever campaign contributions are on hand. Some House members have in excess of $1 million. Some senators, whose campaigns are more expensive, hold more than $2 million.

Alabama got an example of the loophole when the late U.S. Rep. Bill Nichols, D-Sylacauga, died in December. His campaign account held more than $400,000. Staff members say the bulk of that money will be transferred to the congressman's widow and distributed as part of his estate.

Three members of the Alabama House delegation, including U.S. Rep. Bill Dickinson, R-Montgomery, are eligible for the loophole windfall. Dickinson has $435,996, U.S. Rep. Ronnie Flippo, D-Florence, has socked away $811,380, and U.S. Rep. Tom Bevill, D-Jasper, has $515,438.

Rules of the U.S. Senate forbid personal use of campaign funds, but whether the rule could apply to former senators is uncertain. Both of Alabama's senators could take advantage of the loophole. U.S. Sen. Howell Heflin, D-Tuscumbia, could take $488,911 with him if he retired. U.S. Sen. Richard Shelby, D-Tuscaloosa, has $382,506 in his campaign account.

So Sen. Shelby deserves special commendation for introducing legislation which would bar all eligible members of Congress from taking advantage of the potentially lucrative loophole when they leave office.

At stake is a large amount of money. The 190 House members and 73 senators who were in office before 1980 have reported campaign contributions on hand of more than $61 million. That's an average of $224,000 per House member and $341,000 per Senate member.

Sen. Shelby is absolutely correct when he says that donors do not contribute to a candidate in an attempt to enrich the candidate, but rather to help a specific campaign. To turn campaign contributions into personal income invites a perversion of the process which eventually will allow the wealthy to purchase the best Congress money can buy.

Congress can end the embarrassment by passing the legislation which Sen. Shelby has introduced. It should do so quickly.

[From the Alabama Journal, Feb. 7, 1989]

NOT FOR RETIREMENT

The citizen who gives money to a member of Congress doubtless intends it as a campaign contribution, not a retirement present. Yet many members of Congress have amassed substantial campaign funds which current regulations allow them to keep when they leave office and use as they

wish. That's a rotten practice that ought to be stopped.

To his considerable credit, Alabama Sen. Richard Shelby has introduced legislation to end these so-called "rocking chair funds." This is no freebie for Sen. Shelby, no easy-to-offer bill that doesn't touch him. He has $382,506 in his campaign account that he could take with him upon leaving Congress.

Some congressmen are prohibited from using campaign funds for personal purposes, but all should be. The current regulations contain an unconscionable "grandfather clause" that exempts those who were in office on Jan. 8, 1980. Sen. Shelby, for example, was a member of the House of Representatives at that time. Seventy-two other senators and 190 representatives are covered by this indefensible exemption.

A great deal of money is involved here, so much that one must wonder how Sen. Shelby's bill will fare. Affected members may be inclined to vote with their bank books instead of with a clear view of what is right. It is estimated that the now-exempt House members alone have a total of $39.2 million in campaign funds.

Four of Sen. Shelby's Alabama colleagues are covered under the grandfather clause and all have hefty sums banked. Sen. Howell Heflin had $488,911 in his account at last report. Rep. Bill Dickinson of Montgomery had $435,996, Rep. Tom Bevill of Jasper had $515,438 and Rep. Ronnie Flippo of Florence had a whopping $811,380.

In addition, the late Rep. Bill Nichols of Sylacauga had $467,548 in campaign funds when he died in December. Under the current regulations, that money goes to his estate.

"When donors contribute to a political candidate, they do so with the understanding that their money will be used to further the candidate's campaign, not to augment his or her personal wealth," Sen. Shelby said. "Public office is a trusteeship and is not a means to accrue personal wealth." We couldn't agree more.

The grandfather clause allows veteran congressmen with key committee seats and other positions of influence—the type of congressmen who seldom faces serious opposition and so has little need for a huge campaign fund—to simply bank most of their contributions in anticipation of retirement. These contributions become a form of personal financial security, even though that was never the intent of the campaign finance laws.

Sen. Shelby's commendable bill would end this disreputable practice. Congress will disgrace itself if it fails to pass it.●

APPOINTMENT BY THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair announces, on behalf of the majority leader, pursuant to Public Law 100-690, the appointment of the following Senator to serve as a member of the National Advisory Commission on Law Enforcement: DENNIS DECONCINI.

APPOINTMENTS BY THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tem pore.

The Chair announces, on behalf of the majority leader, in accordance with Public Law 100-690, the Anti-Drug Abuse Act of 1988, the following named Senators are hereby appointed as members of the National Advisory Commission on Law Enforcement: Senator RUDY BOSCHWITZ of Minnesota, and Senator DAN COATS of Indiana.

APPOINTMENTS BY THE ACTING PRESIDENT PRO TEMPORE

The ACTING PRESIDENT pro tempore.

In accordance with 22 U.S.C. 1928a-1928e, as amended, the Chair appoints the following Senator as chairman of the Senate Delegation to the North Atlantic Assembly during the 101st Congress: JOSEPH R. BIDEN, JR.

Pursuant to the provisions of Public Law 94-304 and Public Law 99-7 the Chair appoints the following Senators as members of the Commission on Security and Cooperation in Europe: DENNIS DECONCINI, as Chairman of the Commission; FRANK LAUTENBERG; WYCHE FOWLER, TIMOTHY WIRTH, and HARRY REID.

Thereupon at 8:39 p.m., the Senate, preceeded by the Sergeant at Arms, Mr. Henry K. Giugni; the Secretary of the Senate, Walter J. Stewart; and the President pro tempore, ROBERT C. BYRD, proceeded to the Hall of the House of Representatives to hear the address by the President of the United States, George H.W. Bush.

The address delivered by the President of the United States to the joint session of the two Houses of Congress is printed in the proceedings of the House of Representatives in today's RECORD.

RECESS UNTIL 2:15 P.M., TUESDAY, FEBRUARY 21, 1989

At the conclusion of the joint session of the two Houses, and in accordance with the provisions of Senate Concurrent Resolution 14, the Senate, at 10:07 p.m., recessed until Tuesday, February 21, 1989, at 2:15 p.m.